S. Hrg. 101-43

HARPERS FERRY; NIOBRARA RIVER; AND COUNCIL BLUFFS, IOWA TRAILS INTERPRETATION CENTER

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 85

TO AUTHORIZE THE ACCEPTANCE OF CERTAIN LANDS FOR ADDITION TO HARPERS FERRY NATIONAL HISTORICAL PARK, WEST VIRGINIA

S. 280

TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING A SEGMENT OF THE NIOBRARA RIVER IN NEBRASKA AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

S. 338

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO PROVIDE FOR THE DEVELOPMENT OF A TRAILS INTERPRETATION CENTER IN THE CITY OF COUNCIL BLUFFS, IOWA, AND FOR OTHER PURPOSES

APRIL 5, 1989

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S311-41

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HARPERS FERRY; NIOBRARA RIVER; AND COUNCIL BLUFFS, IOWA TRAILS INTERPRETATION CENTER

TUESDAY, APRIL 5, 1989

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:02 p.m., in room SD-366, Dirksen Senate Office Building, Hon. John D. Rockefeller IV presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. The purpose of this hearing today is to receive testimony on three measures currently pending before the Subcommittee on Public Lands, National Parks and Forests.

Those measures are S. 85, a bill to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park in the state of West Virginia; S. 280, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System; and finally S. 338, a bill to authorize the Secretary of the Interior to provide for the development of trails and an interpretive center in the city of Council Bluffs, Iowa, and for other purposes.

Just for one moment before I introduce my honored senior colleague, I would like to discuss one of these bills on the agenda today, which is S. 85, the legislation that will allow the Park Service to accept a donation of land from Brad and Ruth Nash.

The acceptance of these lands will not change the boundary of the park, but will increase the acreage under the management of the National Park Service. These parcels that Mr. Nash so graciously intends to donate have historical, cultural and natural value.

Mr. Nash, who will be introduced by my esteemed senior colleague, Senator Robert C. Byrd, is here with us today, and on

behalf of the people of West Virginia, Mr. Nash, I would like to thank you for your generosity and also to congratulate you on your birthday tomorrow which is, I believe, your 89th.

Mr. NASH. Thank you.

[The prepared statement of Senator Rockefeller and the texts of the bills follow:]

John D. Rockefeller IV

>The purpose of this hearing today is to receive testimony on three measures currently pending before the subcommittee on Public Lands, National Parks and Forests. The measures are:

S.85, A bill to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia;

S.280, A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System; and

S.338, a bill to authorize the Secretary of the Interior to provide for the development of a trails interpretive center in the City of Council Bluffs, Iowa, and for other purposes.

I would like to take just a moment to discuss one of the bills on the agenda today, S.85. This legislation will allow the Park Service to accept a donation of land from Brad and Ruth Nash. The acceptance of these lands will not change the boundary of the Park, but will will increase the acreage under the management of the National Park Service. These parcels that Mr. Nash so graciously intends to donate have historical, cultural and natural value. Mr. Nash, who will be introduced by Senator Byrd, is here with us today. On behalf of the people of West Virginia I would like to thank you for your generosity.

The strategic location of Harpers Ferry at the confluence of the Shenandoah and Potomac rivers, and the well-developed railway system made it a focal point for both the Union and Confederate armies The land being discussed today is in the area called Bolivar Heights. Situated on a high bluff overlooking the Potomac River, the Nash property witnessed significant activity during the civil war. The most noted historical event was the role this area played in the Battle of Harpers Ferry. On September 15,1862, as a result of fire from Loudon Heights and School House Ridge, the Union was forced to surrender Bolivar Heights. This was the largest capitulation of Union troops during the war.

This land in conjunction with land previously donated to the State of West Virginia will serve as a habitat for wildlife and also aid in maintaining the scenic and natural landscape of the park.

Let me welcome all of the witnesses who will be testifying today, especially those who have travelled a very long way to give their testimony. Unfortunately, our time is somewhat limited, and I will have to ask you to limit your oral comments to 3 minutes each, so that we will have an opportunity to hear from all of the witnesses.

At this time, I will place copies of all three measures in the hearing record. The record will remain open for two weeks to receive additional testimony and comments.

II

101st CONGRESS
1st Session

S. 85

To authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia.

IN THE SENATE OF THE UNITED STATES

January 25 (legislative day, January 3), 1989

Mr. Byrd (for himself and Mr. Rockefeller) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to provide for the establishment of the Harpers Ferry National Monument", approved June 30, 1944 (58 Stat. 645; 16 U.S.C. 450bb), is amended by—

(1) striking "two thousand four hundred and seventy-five acres" in the first sentence and inserting "two thousand five hundred and forty acres"; and

(2) inserting after the first sentence the following: "The Secretary may accept donations of not to exceed 65 acres of lands and interests in lands outside the boundary depicted on the map referred to in the first sentence of this section, and when so acquired such lands and interests shall become a part of the park, subject to the laws and regulations applicable thereto.".

○

101st CONGRESS
1st Session

S. 280

To amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

IN THE SENATE OF THE UNITED STATES

January 31 (legislative day, January 3), 1989

Mr. Exon (for himself and Mr. Kerrey) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Niobrara River Scenic River Designation Act of 1989".

SEC. 2. DESIGNATION OF RIVER.

Subsection (a) of section 3 of the Wild and Scenic Rivers Act (89 Stat. 111; 16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

1 "( ) NIOBRARA, NEBRASKA.—(A) The segment from
2 Borman Bridge Southeast of Valentine approximately 76
3 miles downstream to the bridge crossing the Niobrara on
4 State Highway 137, as generally depicted on the map enti-
5 tled 'Boundary Map, Proposed Niobrara Scenic River Valley
6 Corridor, 1985'; to be classified as a scenic river and admin-
7 istered by the Secretary of the Interior, in consultation with
8 the Niobrara Scenic River Advisory Council, established by
9 section 3 of the Niobrara River Scenic River Designation Act
10 of 1989.

11 "(B) After consultation with the Niobrara Scenic River
12 Advisory Council, with State and local governments, and
13 with the interested public and within one year from the date
14 of enactment of this paragraph, the Secretary shall take such
15 action as is required under subsection (b) of this section with
16 respect to development of a management plan. Boundaries of
17 the river valley corridor shall include land within 880 yards
18 of each side of the Niobrara River. Inclusion of additional
19 area within the boundaries may be added; however, no land
20 or interest in land may be acquired within the expanded
21 boundaries without the consent of the owner thereof.

22 "(C) In addition to those values specified in section 1(b)
23 of this Act which are associated with the Niobrara River
24 Valley, the Secretary is hereby directed through the manage-
25 ment plan to protect the pastoral landscape and the estab-

1 lished farming and ranching lifestyles of the rural people who
2 depend upon the land in this unique area.
3 "(D) Notwithstanding any other provision of this Act, a
4 diversion dam and pumping station may be constructed on
5 the Niobrara River to provide water for an 8,000 acre tract
6 near Springview consistent with the report of the State of
7 Nebraska authorized by Public Law 98–63, entitled Nebras-
8 ka State-led O'Neill Unit Alternatives Study and dated Janu-
9 ary 31, 1985.
10 "(E)(i) Notwithstanding any provision to the contrary
11 contained in section 6(a) of this Act, no land or interest in
12 land may be acquired for purposes of the river designated
13 under this paragraph without the consent of the owner,
14 except that a conservation easement in no more than 5 per-
15 cent of the privately owned acreage within the designated
16 river corridor and within 880 yards of the river (other than
17 established farmsteads which are presently occupied) may be
18 acquired without the consent of the landowner if activities
19 are occurring or threatening to occur in the area to be ac-
20 quired which pose a substantial threat to the integrity of the
21 river and the values for which it was designated. Subsurface
22 rights, including natural gas and petroleum resources, may
23 not be acquired by the Secretary without the consent of the
24 owner thereof. Provision shall be made to allow the surface

1 activities necessary for the economical exploration for and
2 the development of natural gas and petroleum resources.
3 "(ii) In recognition of the special river recreational
4 values of the upper portion, public access easements may be
5 acquired at the following locations: Berry Bridge, Allen
6 Bridge, Brewer Bridge, Rockford Bridge, Norden Bridge,
7 and Meadville Bridge. However, any public access easement
8 that would be within one-quarter mile of an occupied resi-
9 dence and on the same unit of property must be acquired on a
10 willing-seller basis only. In the lower portion, public access
11 easements may be acquired only on a willing-seller basis at
12 the following locations: Highway 183 Bridge, Riverview
13 Bridge, Carns Bridge, and Highway 137 Bridge. Such loca-
14 tions shall not be used for purposes of public camping and
15 shall not exceed 5 acres per locations. Nothing in this clause
16 shall preclude the acquisition of other lands for public recre-
17 ational use with the consent of the owner thereof. Easements
18 for scenic overlooks adjacent to existing public roads may be
19 acquired with the consent of the landowners thereof within
20 the river valley. No interests in land in the segment from the
21 Borman Bridge to the Cornell Dam may be acquired without
22 the consent of the owner thereof.
23 "(iii) A donation of land or interests in land within and
24 beyond the specified boundaries of the designated river corri-

1 dor may be accepted by the Secretary if such donation con-
2 tributes to the purposes of this paragraph.
3 "(F)(i) The Secretary shall permit existing land use
4 practices as conducted by present owners or operators within
5 the designated river corridor on the date of enactment of this
6 paragraph, including established agricultural and livestock
7 operations, timber management practices, and private camp-
8 grounds. Structures in place or under construction at the time
9 of designation shall be considered compatible with such desig-
10 nation, and repair or replacement of said residential, farm-
11 stead, agricultural (including private irrigation and fencing
12 systems), fish hatchery and recreational facilities, bridges and
13 other structures shall not be foreclosed. Normal activities
14 within established farmsteads and regarding established resi-
15 dences shall not be subject to restriction.
16 "(ii) Nothing in this subparagraph shall authorize the
17 Secretary to control hunting, fishing, or camping on or public
18 access to private property within the designated scenic river
19 boundaries unless these rights are purchased from the land-
20 owner. Individuals owning more than 40 acres of land within
21 the designated river corridor on the date of the enactment of
22 this paragraph shall be permitted to relocate their primary
23 residence, build an additional residence or farmstead (for
24 family farm and ranch purposes), or build one residence or
25 cabin (if none now exists) on their property within 880 yards

1 of the river. Any additional new nonagricultural structures
2 beyond established farmsteads may be subject to screening or
3 setback requirements established to preserve the scenic
4 values of the river corridor. Continued operation and mainte-
5 nance of the Cornell Dam powerworks shall be permitted,
6 although public safety markers and portage facilities may be
7 provided.

8 "(G) The Secretary may enter into cooperative agree-
9 ments with local units of government for maintenance of ex-
10 isting access and other roads within the designated river cor-
11 ridor, law enforcement, control of trespass, litter control, in-
12 terpretive programs, and other associated visitor services.

13 "(H) The Secretary may share in the expense of insti-
14 tuting conservation and streambank erosion control practices
15 on private land which will contribute to and enhance scenic
16 or natural values or contribute to the protection of agricultur-
17 al land, established bridges, and resources of historical or ar-
18 chaeological significance within the river corridor.

19 "(I) For purposes of carrying out the provision of this
20 paragraph with respect to the river designated by this para-
21 graph, there are authorized to be appropriated $3,500,000
22 for acquisition of interests in lands and $1,000,000 for devel-
23 opment.".

1 SEC. 3. ESTABLISHMENT OF NIOBRARA SCENIC RIVER ADVI-
2 SORY COUNCIL.

3 (a) ESTABLISHMENT.—In order to carry out the provi-
4 sions of this Act, the Secretary shall establish a Niobrara
5 Scenic River Advisory Council to consist of eleven members
6 appointed by the Secretary—

7 (1) three of whom shall be owners of farm or
8 ranch property within the upper portion of the desig-
9 nated river corridor between the Borman Bridge and
10 the Meadville Bridge;

11 (2) three of whom shall be owners of farm or
12 ranch property within the lower portion of the desig-
13 nated river corridor between the Meadville Bridge and
14 the bridge on Highway 137;

15 (3) one of whom shall be a canoe outfitter in the
16 upper portion of the designated river;

17 (4) one of whom shall be a representative of the
18 State of Nebraska;

19 (5) two of whom shall be representatives of the
20 affected county governments or natural resources dis-
21 tricts; and

22 (6) one of whom shall be a representative of a pri-
23 vate citizens conservation organization whose purposes
24 include the philosophy of river conservation.

1 At least five of the six landowners appointed to the Council
2 under clauses (1) and (2) shall be residents of Brown, Cherry,
3 Keya Paha, or Rock Counties.

4 (b) TERMS OF MEMBERS.—The terms of appointment
5 to the Council shall be five years and no individual shall
6 serve more than two terms.

7 (c) ROLE OF COUNCIL.—The Advisory Council shall
8 participate in and have a significant role in the development
9 and review of the management plan for the river designated
10 in this Act, and in the formulation and review of subsequent
11 agency plans including annual operation and maintenance
12 plans.

13 (d) CHAIRPERSON; VACANCIES; REASONABLE EX-
14 PENSES.—The Secretary shall designate one of the members
15 of the Advisory Council, who is a permanent resident of
16 Brown, Cherry, Keya Paha, or Rock Counties, to serve as
17 Chairperson. Vacancies on the Advisory Council shall be
18 filled in the same manner in which the original appointment
19 was made. Members of the Advisory Council shall serve
20 without compensation as such, but the Secretary is author-
21 ized to pay expenses reasonably incurred by the Advisory
22 Council in carrying out its responsibilities under this Act on
23 vouchers signed by the Chairperson.

○

II

101st CONGRESS
1st Session

S. 338

To authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, Iowa, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 2 (legislative day, January 3), 1989

Mr. Harkin (for himself and Mr. Grassley) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, Iowa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) no other cultural event shaped the postcolonial history of the United States more than American westward movement in the nineteenth century;

(2) nineteenth century American westward movement consisted of journeys along a system of trails

1 across the American continent by pioneers, explorers,
2 religious groups, and scientists;
3 (3) no existing historic or cultural site has educa-
4 tional facilities or programs which directly interpret
5 and celebrate the vital role of the western trails during
6 the nineteenth century westward movement; and
7 (4) the national scope of the nineteenth century
8 westward movement (together with its associated his-
9 toric trails) demands that the location of a central in-
10 formation, archival, and interpretive facility be histori-
11 cally significant and easily accessible to the national
12 population.
13 (b) PURPOSES.—The purposes of this Act are—
14 (1) to recognize the system of western trails
15 which should be developed because of its national his-
16 toric and cultural significance; and
17 (2) to provide the United States with a central in-
18 formation, archival, and interpretive facility devoted to
19 the vital role of the western trails in the development
20 of the United States.

21 **SEC. 2. AUTHORIZATION FOR THE DEVELOPMENT OF A**
22 **TRAILS INTERPRETATION CENTER.**

23 (a) AUTHORIZATION.—In furtherance of the purposes
24 of section 7(c) of the National Trails System Act (16 U.S.C.
25 1246(c)), the Secretary of the Interior (hereinafter referred to

1 as the "Secretary") is authorized to provide for a trails inter-
2 pretation center (hereinafter referred to as the "center") in
3 the city of Council Bluffs, Iowa, for the purpose of interpret-
4 ing the history of development and use in the State of Iowa
5 and the adjacent region of the Lewis and Clark National His-
6 toric Trail, the Mormon Pioneer National Historic Trail, and
7 the Oregon National Historic Trail.

8 (b) PLAN AND DESIGN.—(1) Within one year of the
9 date of the enactment of this Act, the Secretary, after consul-
10 tation with the Governor of Iowa and in cooperation with
11 such other public, municipal, and private entities as may be
12 necessary and appropriate, shall complete a plan and design
13 for the center, including the following:

14 (A) a description of the site;

15 (B) the method of acquisition;

16 (C) the estimated cost of acquisition, construction,
17 operation and maintenance; and

18 (D) the manner and extent to which non-Federal
19 entities shall participate in the acquisition, construc-
20 tion, operation and maintenance of the center.

21 (2) In the development of the plan and design for the
22 center the Secretary shall take into consideration the report
23 and plans prepared by The Western Historic Trails, Inc.

24 (c) IMPLEMENTATION.—In order to implement the plan
25 and design under subsection (b) of this section, the Secretary

1 may acquire lands and interests in lands by donation, pur-
2 chase with donated or appropriated funds, or exchange, and
3 construct an interpretative center on such lands. The Secre-
4 tary is authorized to accept donations of money and services
5 for the construction of the center. The Secretary may enter
6 into cooperative agreements with the State of Iowa, the city
7 of Council Bluffs, and other public or private entities in ac-
8 cordance with standards and criteria established by the Sec-
9 retary in cooperation with such entities for the operation and
10 maintenance of the center by a non-Federal entity.

11 (d) COST SHARING.—(1) The Federal share of the costs
12 related to planning, acquisition, and development of the
13 center shall not exceed 80 percent of such costs of
14 $10,000,000, whichever is less.

15 (2) In determining the portion of costs that the
16 non-Federal entity shall provide under paragraph (1)
17 of this subsection, the Secretary shall consider the
18 following:

19 (A) a contribution of money, land or an inter-
20 est in land;

21 (B) the provision of infrastructure facilities
22 including roads, sewage disposal and utilities; and

23 (C) any other contribution that the Secretary
24 determines to be appropriate.

1 (e) SATISFACTION OF EDA RESTRICTIONS.—Notwith-
2 standing any restriction on the use or transfer of non-Federal
3 property imposed through laws and regulations administered
4 by the Economic Development Administration if the Secre-
5 tary accepts a donation of such property for the purpose of
6 developing the trails interpretation center under this section,
7 any such restriction shall be deemed satisfied.

○

Senator ROCKEFELLER. At this point it is my honor to call forward for the purpose of introduction Senator Byrd, who has lived in West Virginia far longer than I have and is a man I greatly admire and rarely have the chance to introduce in a setting such as this. So, Senator Byrd, I am honored to have this honor.

STATEMENT OF HON. ROBERT C. BYRD, U.S. SENATOR FROM WEST VIRGINIA

Senator BYRD. Thank you very much, Senator Rockefeller. I am honored to be your colleague, may I say.

I am pleased that the committee is acting expeditiously on legislation which I introduced on behalf of you and myself. S. 85 would allow the donation of certain land in Harpers Ferry, West Virginia, to the Harpers Ferry National Historical Park.

The acquisition of this land would be of historical value to the Harpers Ferry community and to the state of West Virginia and to our country.

During the War Between the States Confederate forces under the command of Colonel Thomas J. "Stonewall" Jackson were encamped on the land designated for donation. In 1861 Colonel Jackson's troops used that ground as a practice field. That enabled them to prepare for the Battle of First Manassas or Bull Run. And that land was also vital for defensive purposes.

It is situated on a high bluff at the north end of Bolivar Heights overlooking the Potomac River. From that location the southern army monitored activities along the Potomac, the Baltimore & Ohio Railroad, the Chesapeake & Ohio Canal, and the Harpers Ferry Sharpsburg road, all major transportation routes into the Shenandoah Valley.

In the summer of 1861 the southern detachment was withdrawn from the town of Harpers Ferry and the surrounding area. Union forces then regained access to the Harpers Ferry area and camped on the acreage that is now the property of Bradley and Ruth Nash.

On September 13, 1862, General Robert E. Lee's army of northern Virginia began its invasion of the North. The keystone in the southern strategy was to regain control of the town of Harpers Ferry. Numbering 12,500 men, the Union detachment at Harpers Ferry was under the command of Colonel Dixon Miles. With insufficient supplies, Colonel Miles was faced with defending the town against a force of 14,000 Confederate troops.

Reentering the area, Stonewall Jackson's forces surrounded the federals by dividing themselves into three parts. One division was ordered to strike at Loudon Heights, a second division to strike at Maryland Heights, the third division would strike from Bolivar Heights.

Jackson held overall command by 8:00 a.m. on Monday, September the 15, 1862, the town of Harpers Ferry was swallowed up by the Confederates. The southern force occupied the town of Harpers Ferry until September 19, 1862, at which time all Confederate troops in the area were summoned to fight at Antietam.

For the remaining two and a half years of the Civil War, Harpers Ferry was occupied by Union troops. As my colleague knows, the battle for Harpers Ferry was one of the most significant Civil

War battles in West Virginia. It involved one of what is now our state's most famous native sons and one of the greatest generals in all history, Stonewall Jackson.

Mr. Chairman, the property that S. 85 addresses is owned by Mr. Bradley Nash and his wife Ruth, and it is our privilege today to have with us here in this handsome hall Mr. Nash. He is the former mayor of Harpers Ferry. He has served our country with great distinction. In addition to his terms as mayor of Harpers Ferry, Mr. Nash served as a Deputy Under Secretary for the Department of Commerce, as an Assistant Secretary of the Air Force, and in various other capacities in federal, state and local governments.

His wife Ruth is accomplished in her own right. She is a recognized journalist, having written articles that have appeared in such publications as Time, Newsweek and U.S. News and World Report, along with editorials that have appeared in national and local West Virginia newspapers.

In addition to the acreage proposed for donation in S. 85, the Nashes have donated altogether 28 acres to the Harpers Ferry National Historical Park. Bradley and Ruth have been generous and patriotic West Virginians and Americans and I am proud of their contributions not only to Jefferson County and to West Virginia but also to our country through the services that they have given.

The acceptance of the Harpers Ferry acres that the Nashes are now offering would be further evidence of their generosity and patriotism. And, more importantly, it would serve as a valuable and special gift to generations of West Virginians and Americans yet unborn.

It is my understanding that Mr. Nash will be called on later to testify. I am going to a Defense Appropriations Subcommittee meeting, and I have explained to Mr. Nash my inability to remain here, but I would just like for Mr. Nash to stand while I am here. I want to present him to the subcommittee and to the audience. Mr. Nash.

[Applause.]

Senator BYRD. Mr. Chairman, I thank you for your courtesy and kindness in allowing me to appear early and to be on time to attend my next meeting. I thank you also for the service that you are performing in conducting hearings on this and other legislation. You serve as a member of three major committees, three class A committees. I only serve on two class A committees. But your committees are important ones, Energy, Finance, and Commerce, and you are distinguishing yourself on all those committees. As the former majority leader, somebody who knows Senators very well and knows the quality of their work, again I close as I began. It is an honor to have you as my distinguished colleague. Thank you very much.

Senator ROCKEFELLER. Senator Byrd, thank you very much indeed. Thank you for your presence.

Denis Galvin is the Deputy Director of the National Park Service, and I welcome your testimony.

Mr. GALVIN. Thank you, Mr. Chairman. I will testify on all three bills before the committee.

Senator ROCKEFELLER. Mr. Galvin, if you could just hold for a moment, I did not notice the very slight barely visible presence of the great Senator from the State of Nebraska, Senator Exon, who slipped in on me.

STATEMENT OF HON. J. JAMES EXON, U.S. SENATOR FROM NEBRASKA

Senator EXON. Thank you very much.

Senator ROCKEFELLER. Senator, we are honored to have you before this committee.

Senator EXON. Mr. Chairman, thank you very much and my colleague, Senator Kerrey, will be joining me very soon on this matter.

Let me start—I first want to thank you for chairing this hearing this afternoon. This is a very, very important matter that you are going to hear from several Nebraskans on today, most of them for, some of them against the Niobrara proposal that is the subject of my discussion with you today. Hopefully we can put this in perspective as far as the Nebraska delegation is concerned. So, please let me read a prepared statement that I have to make in this regard, and then I know my colleague from Nebraska will be over to make some comments also.

Mr. Chairman, and members of the subcommittee, I appreciate your holding this hearing to discuss a bill that is very important to me and to the people of Nebraska, the Niobrara Scenic River Designation Act of 1989. I am pleased to be joined in this effort by Senator Kerrey and Congressman Peter Hoagland of the Second Congressional District who will be here to testify on this measure.

The Niobrara River is an incredible place that can truly be described as one of God's masterpieces. In its most spectacular reach, the river is cradled in a valley hundreds of feel below the bluffs on each side which are rimrock and ponderosa bluffs. It clearly is a natural masterpiece that merits our recognition and protection. And it is clear Nebraskans recognize the importance of this treasure. The recent survey by the Omaha World-Herald newspaper shows that 74 percent of all Nebraskans support this scenic river designation because they have been alerted to this treasure.

For years this Niobrara has been a high priority with this Senator, and I would like to start by giving you a little history of the Niobrara bill. Eight years ago, Mr. Chairman, farm and ranch landowners along this 76 mile stretch of the river began to formulate the proposals embodied in S. 280. They worked long and hard to develop a bill which would protect the Niobrara by creating a "limited partnership" with the federal government. In the spring of 1985 they met with me in Lincoln, Nebraska, and I agreed to champion their legislation.

After its introduction, a hearing was held in Springview, Nebraska, followed by two more in Lincoln under the auspices of the state.

During that time a group of Nebraskans sought to develop a local plan for protecting the river. As such, I agreed to hold off any federal scenic river designation for a time. Unfortunately, those efforts have not come to fruition, and I believe they never will.

Therefore, it is time that we move forward with the help of you and the committee, Mr. Chairman.

Later this afternoon you will hear from several detractors of the scenic river designation. I know they are good folks who embody the independence and the self-reliance that made this country great. But they do not, Mr. Chairman, represent ownership of a majority of the land in question. A study conducted for the Nebraska Natural Resources Commission clearly shows that those owning more than 62 percent of the riverfront miles support the scenic river designation.

I believe local landowners can work with the federal government to reach a goal we all share, protection of the Niobrara for future generations. This bill envisions a unique and workable approach. The National Park Service by consensus is the one that would be in charge if and when this is so designated, and certainly they listen to local concerns. There are many examples across the country where this approach has been truly a success story.

S. 280 provides protection for the river, it retains landowners' rights. It establishes a Niobrara River advisory council including local people. It can help with conservation and streambank erosion control. It provides for road and litter and law enforcement assistance. And it will not take—I emphasize, Mr. Chairman—will not take land off of the tax rolls.

Local people have much to gain. In addition to protecting the river for future generations, this proposal holds promises of an effective economic development tool. The Valentine Economic Development Committee has surveyed canoeists and found that, on the average, they spend $165 per visit. Another analysis by a respected expert predicts scenic river designation will generate $4 million, Mr. Chairman, $4 million of additional sales and $1.2 million in net income for the surrounding counties annually. This is a handsome return for our efforts to protect the Niobrara.

Mr. Chairman, yesterday at the last minute before this hearing a "study" bill was introduced in the House of Representatives by Congresswoman Virginia Smith of Nebraska. I am extremely pleased that the Congresswoman has finally come on board in support of protecting the Niobrara. Only two or three weeks ago, she was firmly opposed to it as she always has been this. This represents quite a change in her position, and I am delighted. But this legislation, which requires a study of the entire Niobrara River in Nebraska—I emphasize, Mr. Chairman, this study requires this proposition that she has introduced in the form of legislation requires a study of the entire Niobrara River in Nebraska. This cannot and should not and must not be confused with the measures which Senator Kerrey, congressman Hoagland, and I have introduced.

I have a few reservations about this new bill. First and foremost, I will vigorously oppose it if it is simply another stalling tactic, and all should understand that. If that is the goal, it flies in the face of what Nebraskans want, which is a scenic river designation. I also point out and emphasize that ample authority already exists to do a scenic river study without legislation. I would not object to the Department of Interior doing a study through their National Parks Service, but I am not in favor of designating the entire stretch of

the Niobrara as a wild and scenic river which seems to be at least one of the possible outcomes of the study of the whole river.

I am also concerned that Mrs. Smith's bill contemplates scenic river designation for the entire river. And if that were proposed, it would only bring about opposition all up and down the river. Therefore, I am not sure that I understand the proposal. I do not know what the rest of the landowners up and down the river would say about this. I know where those owning a majority of the land affected by my bill stand. They are in support of the designation. And the bill that we are talking about today is basically a result of their efforts. But going outside this boundary is another story altogether and would undoubtedly bring in many more complications which I think we do not need.

The bottom line here is that we have a good bill in S. 280. It is the result of careful crafting and consideration of all legitimate interests over a period of years, save those who want nothing accomplished whatsoever. Let me repeat that, Mr. Chairman, if I might. This is a good bill, put together after careful crafting and consideration of all legitimate interests over a period of years save those who want absolutely nothing accomplished in this area. We stand ready as we have often stated to make constructive changes in the bill as it progresses through the Congress. I fully intend to gain scenic river designation before the end of the 101st Congress, and I am confident that this can be done.

Mr. Chairman, and members of the subcommittee, I look forward to today's hearing so that we can move forward with protecting Nebraska's Niobrara, our "jewel of the north" as I call it. We owe it to future generations to take this action in this area.

I appreciate very much your time and consideration, Mr. Chairman, and if I might, I would like to join you in sitting in on as much of the hearing this afternoon as I could.

Senator ROCKEFELLER. Senator Exon, thank you very, very much. It is an honor for us that you are here, and I can recall last year for the first time West Virginia went through the same experience of having in this case a bill that I introduced some portions of three rivers designated either national recreation area or scenic, and it is a wonderful accomplishment when that can happen. I welcome your testimony, and we will be honored to have you as long as you can stay.

Senator EXON. Were you successful in accomplishing your task in West Virginia?

Senator ROCKEFELLER. I was.

Senator Exon: I hope that we can count on you to be with us in this measure, which is overwhelmingly supported by Nebraska. Thank you very much, Mr. Chairman.

Senator ROCKEFELLER. Thank you very much.

All right, I see no other—so, Denis Galvin, once again, if you could come forward, we welcome your testimony.

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 85

Mr. GALVIN. Mr. Chairman, I am here to testify on all three bills that are before the subcommittee this afternoon. I have prepared

statements on each bill, and I will summarize the content of those if it meets with your pleasure.

S. 85, a bill to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park and the the state of West Virginia, this would authorize the National Park Service to accept the donation of 65 acres of land outside but adjoining Harpers Ferry National Historical Park.

We recommend that S. 85 be enacted if amended as we suggest. Senator Byrd eloquently outlined the historical value of the tract. We certainly concur in his views.

The former mayor of Harpers Ferry, Mr. Bradley Nash, and his wife, Ruth, are the current owners of much of these lands. It is their intention to donate their current holdings on Bolivar Heights to the Park subject to a right of use and occupancy which would terminate upon the death of the surviving spouse.

Currently the Nashes occupy 21-plus acres of this property. We would have no problem with their retention of use and occupancy rights on it. The State of West Virginia has indicated a willingness to work with the Park in managing other State holdings on Bolivar Heights. The state lands are undeveloped.

Costs involved with these donations would be minimal.

Mr. Chairman, we recommend that the bill be amended to make the authorization to accept the donation contingent upon receipt of assurances satisfactory to the Secretary that the Federal Government will receive clear title to the property.

We understand that some of the property was acquired at tax sales, and there may be a question of clear title.

Mr. Chairman, this concludes my testimony on S. 85.

I will await the pleasure of the Chair, if you would like to ask questions on this or I can go on with my statements on the other bills.

[The prepared statement of Mr. Galvin on S. 85 follows:]

STATEMENT OF DENIS GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ON S. 85, A BILL TO AUTHORIZE THE ACCEPTANCE OF CERTAIN LANDS FOR ADDITION TO HARPERS FERRY NATIONAL HISTORICAL PARK IN THE STATE OF WEST VIRGINIA.

APRIL 5, 1989

Mr. Chairman, it is a pleasure to appear before this Committee today to present the Administration's views on S. 85, which, if enacted, would authorize the National Park Service to accept the donation of approximately 65 acres of land outside but adjoining the present boundaries of Harpers Ferry National Historical Park in and around Harpers Ferry, West Virginia.

We recommend that S. 85 be enacted if amended as we suggest.

The properties in question lie atop Bolivar Heights, just west of the Town of Harpers Ferry. Situated on a high bluff overlooking the Potomac River, these lands witnessed substantial activity during the Civil War. In the Spring of 1861, Col. "Stonewall" Jackson encamped and trained his men on the property in preparation for the Battle of First Manassas, or Bull Run. In June 1861, the Southern army abandoned the property and moved south into the Shenandoah Valley. Subsequently, Union forces moved into the area and occupied it throughout the remainder of the War. The discovery of a variety of Union artifacts on these lands attests to the presence of the Union forces some 125 years ago. Earthworks constructed on the Heights in 1864 by Union forces under General Sheridan remain in part, one of which is

located on the property in question.

The former mayor of Harpers Ferry, Mr. Bradford Nash, and his wife Ruth are the current owners of much of these lands. The State of West Virginia is the only other landowner of the lands authorized for addition to the park under this bill. Mr. and Mrs. Nash have previously given land to the National Park Service at Harpers Ferry; and it is their intention to donate their current holdings on Bolivar Heights to the Park, subject to a right of use and occupancy which would terminate upon the death of the surviving spouse. Currently the Nash's occupy 21-plus acres of open pasture and mixed hardwood forest which provides habitat for a variety of native and migratory birds and other animals. Their improvements include 2 contemporary houses and a barn. We would have no problem with their retention of use and occupancy rights on this property.

Similarly the State of West Virginia has indicated a willingness to work with the Park in managing the State's holdings on Bolivar Heights. It is not outside the realm of possibility that the State, too, might donate a portion of their holdings in this area, holdings which they originally received from Mr. and Mrs. Nash. State lands are undeveloped and consist of both open meadows and forests.

Costs involved with these donations would be minimal. At some point in time it will be necessary to deal with the 3 buildings

and attendant improvements associated with the Nashes. There will also be minor costs associated with the transfer of real property.

Mr. Chairman, we recommend that the bill be amended to make the authorization to accept the donation contigent upon receipt of assurances satisfactory to the Secretary that the Government will receive clear title to the property. We understand that the Nashes acquired some of the property at tax sales, and the question of a clear title has not been assured as yet.

Mr. Chairman, this concludes my testimony on S. 85. I will be pleased to respond to questions you or other Members of the Committee might have at this time.

Senator ROCKEFELLER. Well, let me just go ahead on this one. Will you describe the land ownership pattern directly adjacent to the park?

Mr. GALVIN. The land ownership pattern adjacent to this section of the park is principally private lands with some State lands.

Senator ROCKEFELLER. Would this legislation allow the National Park Service to acquire lands by means other than donation?

Mr. GALVIN. No, I do not believe so.

Senator ROCKEFELLER. Would this legislation allow the Park Service to acquire lands outside the boundary of the park?

Mr. GALVIN. No, it would not.

Senator ROCKEFELLER. What is the historical significance of the lands being donated?

Mr. GALVIN. Well, as I said, Senator Byrd quite appropriately outlined the historical significance. It was the site of a southern encampment during the early Civil War. It was occupied by Union forces throughout much of the Civil War. Earthworks constructed on the heights in 1864 by Union forces under General Sheridan remain in part on the property. One of those earthworks is on this property that is to be donated. So, there is no question about both its significance by itself, so to speak, but also since it is already adjoining lands that are part of Harpers Ferry National Historical Park, it is a very desirable addition to Harpers Ferry National Historical Park.

Senator ROCKEFELLER. Could you proceed on then to Senate bill 280.

Mr. GALVIN. With the exception that we would like to work with staff to develop language to deal with the question of clear title, we recommend an amendment.

Senator ROCKEFELLER. Yes. And I will then need to be asking Mr. Nash whether he would have objection to that when he comes forward to testify.

So, if you could go on to the Niobrara River, I would appreciate it.

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 280

Mr. GALVIN. Thank you, Mr. Chairman. S. 280 would designate 76 miles of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

We recommend that Congress follow the practice established under the Wild and Scenic Rivers Act and provide for a study of the river to determine its suitability for addition to the National Wild and Scenic Rivers System. If it is amended to provide for such a study under section 5(a) of the Wild and Scenic Rivers Act, we would recommend the enactment of S. 280. However, we cannot support the bill in its present form.

There is no question, Mr. Chairman, that the Niobrara River is an outstanding river resource and was considered for immediate designation as early as 1965. The Niobrara is one of the seven heartland rivers featured in the National Geographic Society's book "America's Wild and Scenic Rivers."

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In the Nationwide Rivers Inventory published by the National Park Service in 1982, this segment was identified as having outstanding scenic, recreational, geologic, fish, wildlife, and cultural values. It encompasses all of the 76 miles in S. 280.

The segment in this bill, however, was given more cursory investigation during the nationwide rivers inventory than was the upstream segment in the 1960's, and we have not developed a conceptual plan for administering the river. Ordinarily this occurs under the Wild and Scenic Rivers Act during a formal study process pursuant to section 5(a).

The reason we support such a study is that a section 5 study could identify and evaluate alternatives in the following areas: Management options, including local management options for managing the river.

Eligibility—The study would establish the eligibility of the Niobrara River within limits set by a study bill. The 1982 Nationwide Rivers Inventory identifies 253 miles of the Niobrara River as having the potential for inclusion in the system. The rationale for selection of the 76 miles covered in S. 280 is unclear.

A third thing that a study would do would be to establish boundary options. The bill sets a boundary of about one-half mile from the stream bank. That may be unduly restrictive for landowners outside of the viewshed of the river. A study would give us opportunity to look at different boundary configurations. It also would give us an opportunity to classify the river throughout its various segments for designation as wild, scenic and/or recreational components of the system.

The study could also provide public information benefits for which there is no opportunity with immediate designation providing the opportunity to better explain to the public what proposed designation means.

The proposed legislation also includes a variety of specific provisions which we would prefer to see developed through the management planning process required. These include location of public access sites. The bill specifies the public access sites along the river. We believe that should be determined through a study conducted publicly.

Second, it would determine existing land use practices. The bill allows continued agricultural livestock, timber management, and commercial camping land use practices without regard to their effect on the resources. The resource qualities requiring protection would be spelled out in a plan.

Oil and gas exploration and extraction—these activities are specifically allowed in the designated corridor. Oil and gas production might be compatible with the management of the river provided adequate screening and environmental safeguards are in place. If it can be done in an environmentally compatible manner, a management plan would spell out the conditions under which exploration and extraction can occur.

Also, a study would allow us to clarify land acquisition techniques. In the bill, land acquisition is limited to purchase of easements from willing sellers except that easements may be acquired by condemnation totalling no more than 5 percent of the designated corridor.

We believe that provisions should be made for fee acquisition of lands needed for public access, visitor contact, interpretation and administrative facilities.

Section 2(b) of the proposed legislation calls for preparation of a management plan within one year from the date of enactment after consultation with the Niobrara Scenic River Advisory Council. In our experience, Mr. Chairman, it frequently takes a year or more to appoint an advisory council, and it would take more than one year to complete the study. Therefore, the one year planning time frame is unreasonable and should be lengthened to two complete fiscal years after the appointment of the council.

In summary, Mr. Chairman, the Niobrara is unquestionably an outstanding river resource. We recommend that the normal suitability study process set forth in the Wild and Scenic Rivers Act be followed. Under that process, a river segment is designated for study, and a report is prepared by the Secretary and submitted to the President usually within two or three complete fiscal years. The President then makes his recommendation to Congress with respect to designation of the river as a component of the National Wild and Scenic Rivers System. Such a study would cost approximately $200,000.

This concludes my testimony on S. 280, Mr. Chairman.

[The prepared statement of Mr. Galvin on S. 280 follows:]

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S.280, A BILL TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING A SEGMENT OF THE NIOBRARA RIVER IN NEBRASKA AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

April 5, 1989

Mr. Chairman, I appreciate the opportunity to provide your Committee with the views of the Department of the Interior on S.280. This bill would designate 76 miles of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

We recommend that Congress follow the practice established under the Wild and Scenic Rivers Act and provide for a study of the river to determine its suitability for addition to the National Wild and Scenic Rivers System. If it is amended to provide for such a study under section 5(a) of the Wild and Scenic Rivers Act, we would recommend the enactment of S.280. However, we cannot support the bill in its present form.

The Niobrara River is an outstanding river resource, and a segment of the river was considered for immediate designation as early as 1965 when the Wild and Scenic River legislation was being formulated and debated in Congress. At that time the segment being considered extended from Nebraska Highway 87 south of Hay Springs to U.S. Highway 83 at Valentine. This is a segment of river immediately upstream of the segment currently under consideration.

The Niobrara is one of the 7 "Heartland" Rivers featured in the National Geographic Society's book America's Wild and Scenic Rivers. In the Nationwide Rivers Inventory published by the National Park Service in 1982, a segment from Antelope Creek near Highway 87 downstream to the confluence with the Keya Paha, was identified as having outstanding scenic, recreational, geologic, fish, wildlife, and cultural values. It encompasses all of the 76 miles in S.280.

However, whereas the river upstream of Valentine was investigated in depth in themid-1960's, the segment in this bill was given more cursory investigation during the Nationwide Rivers Inventory, and we have not developed a conceptual plan for administering the river. Ordinarily this occurs during a formal study process conducted pursuant to section 5(a) of the Wild and Scenic Rivers Act.

Determination of the designated river segment, its classification, the river corridor boundaries, and the managing agency without a prior detailed study may result in the failure to consider desirable management or boundary options as well as the inclusion of provisions that are inappropriate or unnecessary. A section 5 study could identify and evaluate alternatives in the following areas:

1. Management Options - The study would identify several options for managing the Niobrara, including Federal or State management as a component of the Wild and Scenic Rivers System. Local management options would also be fully considered.

2. Eligibility - The study would establish the eligibility of the Niobrara River within limits set by a study bill. The 1982 Nationwide Rivers Inventory identifies 253 miles of the Niobrara River as having the potential for inclusion in the National Wild and Scenic Rivers System. The rationale for selection of the 76 miles covered in S.280 is not known. A study could assess the eligibility of all or parts of the 253 miles listed in the inventory.

3. Boundary Options - The study would also recommend general boundaries related to the nationally significant resources or viewshed. As written, the bill sets a boundary about one-half mile from the stream bank. When this boundary is combined with the restrictions on development in section 2(e), it may be unduly restrictive of landowners outside of the viewshed of the river.

4. Classification Options - The study would evaluate the suitability of various river segments for designation as wild, scenic, and/or recreational components of the National Wild and Scenic River System.

A study could also provide public information benefits for which there is no opportunity with immediate designation. Providing the opportunity to better explain to the public what the National Wild and Scenic River System is might improve the acceptance of Federal or State management in the future.

S.280 also includes a variety of specific provisions which we would prefer to see developed through the management planning process required by section 3(d)(1) of the Wild and Scenic Rivers Act. These include:

1. Location of public access sites - The bill legislates the location of public access sites, all of which are at bridge crossings. We would prefer to identify necessary access sites through a planning process which would consider visitor safety, resource factors (e.g., soil suitability for development, presence of rare plants and animals, etc.) the existing road system, the needs of canoe livery operators and recreational users, and similar considerations.

2. Existing land use practices - The bill allows continued agricultural, livestock, timber management, and commercial camping "land use practices," without regard to their effect on the resources. The resource qualities requiring protection would be spelled out in a management plan. The plan would also identify the best means to provide for

continuation of these activities so as the avoid or minimize adverse resource impacts.

3. Oil and gas exploration and extraction - These activities are specifically allowed in the designated corridor. Again, the management plan would set out how eliminate or lessen unwanted impacts to resources while still permitting oil and gas activities.

4. Land acquisition - Land acquisition is limited to purchase of easements from willing sellers, except that easements may be acquired by condemnation, totaling no more than five percent of the designated corridor, when activities are occurring or threatened to occur which pose a substantial threat to the integrity of the river and the values for which it was designated. We note that these limits are more stringent than the limitation on Federal acquisition of fee title--already enacted in the Wild and Scenic Rivers Act--of no more than 100 acres per mile of river. We are not convinced of the need for a more stringent limitation in this instance, but would review the matter as part of a suitability study under Section 5(a) of the Act.

Section 2(b) of the proposed legislation calls for preparation of a management plan with 1 year from the date of enactment and after consultation with the "Niobrara Scenic River Advisory

Council" to be appointed by the Secretary. Based upon experience with similar requirements in other park-related legislation, it frequently takes a year or more to appoint an advisory council. It would thus be difficult to coordinate the management plan with the council within the required time. Also based on earlier experience, it would take more than 1 year to complete the study, the environmental reviews, and obtain central office approvals. Therefore, the 1 year planning time-frame is unreasonable and should be lengthened to 2 complete fiscal years after the appointment of the council. Scheduling the study by fiscal years is necessary to assure availability of funds for the entire study period.

In summary, Mr. Chairman, the Niobrara is valuable river resource worthy of being considered as a potential component of the National Wild and Scenic Rivers System. We recommend that the normal suitability study process set forth in the Wild and Scenic Rivers Act be followed.

Under that process a river segment is designated for study and a report is prepared by the Secretary and submitted to the President, usually within 2 or 3 complete fiscal years. The President then makes his recommendation to Congress with respect to designation of the river as a component of the National Wild and Scenic Rivers System. Such a study would cost approximately $200,000.

This concludes my prepared testimony, Mr. Chairman. I would be pleased to respond to any questions you may have.

Senator ROCKEFELLER. Mr. Galvin, I am grateful for that, and would ask once again, if you do not mind before I and perhaps others ask you some questions on this bill if you would yield to Senator Kerrey, who has been waiting for about ten minutes.

Mr. GALVIN. Certainly, Mr. Chairman.

Senator ROCKEFELLER. Senator Kerrey, we are honored to have you here.

STATEMENT OF HON. BOB KERREY, U.S. SENATOR FROM NEBRASKA

Senator KERREY. I am here to do something that I have been doing for the last three years which is to indicate that I believe this 78 mile stretch should be designated as a wild and scenic river.

The origin of the wild and scenic designation began with some landowners, some property owners on the river who approached Senator Exon some three or four years ago at a time when I was governor indicating that they had investigated, done some work looking at possible wild and scenic designation and approached Senator Exon and asked him what he thought.

He, after some investigation, reached the conclusion that it would be a good idea. He approached me and after, again, some consultation with some people at the local area, I reached the conclusion as well that it would be a good designation.

I do not make any representation that I understand all the procedures of such a designation, but I do understand the rights of the property owners should be respected and that we ought to do it in a way that not only preserves and protects the river but preserves and protects as much as possible the rights of individual property owners.

And what I think any fair-minded person would do in the evaluation of this would conclude that beginning with Senator Exon and following with myself and other people who have come on board, we have not only been concerned about local property owners. We have gotten—we bent over so far backwards at times that we now have individuals who understand this process perhaps a bit better being concerned that we have gone too far and who oppose it in the way that we have it put together because they think we have given too much control to the local property owners.

I do not happen to think we have. I happen to think that the bill as proposed is good. I do not object, secondly, to a representation that we need to study it, although I have a conservative side that says that very often that studies lead nowhere other than the accumulation of additional paper that somebody might find useful at some point but does nothing in terms of us trying to advance the project itself.

I typically do not recoil in horror, but I do get somewhat defensive when a study is proposed. In this instance it seems like a reasonable proposal though I suspect a separate piece of legislation is not necessary.

The proposal is controversial, make no mistake about it. It is controversial at home. In the early days when Senator Exon indicated his support, he was almost by himself. Amongst politicians he was. I joined with him because I believed in the merits of the proposal,

but it is still controversial at the local level. It is, I think, awfully important that we in Nebraska attempt at least to present a unified front, even when we disagree.

Earlier today both Senator Exon and I appeared before the Appropriations Committee of which I am a member and urged the Appropriations Committee to give approval to some public works projects. Included in that list was a public works project known as Davis Creek which has been extremely controversial as well.

It has not been joined, unfortunately, by the administration in saying that we ought to follow through and complete the project, and Senator Exon and I when we presented our testimony this morning said that unless our Congressional delegation, a relatively small Congressional delegation, is unified in the presentation of that proposal, it is going to go nowhere. And typically we have been able to do that, set aside partisan considerations, set aside political considerations and simply say we want to do what is in the best interest even when we disagree. And I, for one, happen to contain, happen to have inside of me some concern that the study proposal, in fact, does not honor that need that I think is awfully important.

If the study is designed to take into consideration the local property owner as Senator Exon has done right from the first moment, then I think it is a reasonable thing to do. If it is done in a way that says we want to make sure that we do this right. We cannot just pull a piece out of this thing. It has got to be done in a comprehensive way, I fully support it. But the idea of designating 78 miles of the Niobrara River as a wild and scenic river is extremely sound and should be done, and it has taken a considerable amount of courage on Senator Exon's part and I think a considerable effort as well to reach a point where we are now close to having the entire Congressional delegation unified in purpose if not in spirit on trying to advance this proposal.

So, I would urge in the process of considering whether or not it needs a study, do it in the context of the historical effort that has been made and with all due respect and all and full consideration of local property owners who will testify later, and their representatives, including Senator Howard Lamb, who I think has done an exceptional job of considering the concerns of the property owners along that river.

I thank again the chair for permitting me to offer this testimony, and I thank again Senator Exon for his leadership in this matter. It is, I think, in the end going to be something that Nebraskans, our citizens and all citizens who are concerned about the preservation of our resources as well as the development of those resources that should be developed. I think they will thank him in the end for his work.

Senator ROCKEFELLER. Thank you, Senator Kerrey, very, very much.

I note that Congresswoman Virginia Smith is here, and we would welcome your testimony, Congresswoman.

Senator EXON. Mr. Chairman, if I might, let me join you in welcoming Congresswoman Virginia Smith to our meeting here this afternoon.

We have not seen eye to eye on this proposition, but maybe we are about to reach some kind of a consensus, as I indicated in my prepared statement.

Welcome to you.

STATEMENT OF HON. VIRGINIA SMITH, U.S. REPRESENTATIVE FROM NEBRASKA

Mrs. SMITH. Thank you, Senator.

Mr. Chairman, Senator Burns, let me say that I appreciate the opportunity of coming to this meeting to testify against S. 280.

I have with me as an expert witness from Nebraska the immediate past president of the Nebraska Water Resources Association, Mr. Rufus Amis, who is here as an expert witness because he knows more about water issues in Nebraska than probably anyone else.

I ask that each of us be allowed to submit our entire statements for the record and that each of us be allowed to briefly summarize our statements.

Senator ROCKEFELLER. That will be granted. We were not aware that the expert witness was coming, but the expert witness is here, and he will be treated with the full respect of the committee.

Mrs. SMITH. I am sure that is the case. He is here at the suggestion of a member of your subcommittee, and I am very happy to have him here.

Mr. Chairman, I want to ask you first to consider holding field hearings before you take this bill any farther. It seems to me that the subcommittee would be well served by listening to the concerns of people whose lives would be affected every day by this federal designation. I think those folks should have a chance to speak, not just the limited number of three who were permitted to be here today.

This legislation is very contentious. The majority of the landowners living in that area oppose this bill. Since January, in fact, I have received more than 75 letters from people in the area who oppose the bill. I have received three letters from people who support it. I have received fewer than ten letters from all of the 62 counties in my district from people who support this legislation.

In addition, the county commissioners of four counties in this area have passed resolutions opposing this piece of legislation. Also, the city councils of towns in the area, Atkinson, Ainsworth, Long Pine, Springview, and Valentine, have all made resolution in opposition to this legislation. I know of no county commissions that support the legislation. I know of no city councils in the area that support the legislation.

The natural resources districts, the Ainsworth Irrigation District, the Upper Niobrara Resources District, and the Lower Niobrara Resources District all oppose this legislation.

I have with me this afternoon, Mr. Chairman, letters directed to you signed by 30 people from out in Nebraska who are here today and who would have liked to testify at this hearing if there had been time. All of them oppose this legislation.

The state Senator who represents the area is here in this room. He is here to testify against the bill. I think all of you will be very

much interested to know that in 1986, the Nebraska National Resources Commission following the introduction of a bill of this type made a study of the Niobrara at the request of Senator Exon and then-Governor Kerrey. Their report is entitled "The Niobrara River, A Proposal for Scenic River Designation."

After the publication of that report, the Nebraska Natural Resources Commission unanimously passed this resolution, and I want to read it. "The National Resources Commission strongly favors local involvement at this time and urges that local residents through their elected representatives select and develop the appropriate means to preserve, protect, and manage the special values of the Niobrara River."

The legislation before us today flies in opposition or rather flies in the face of all of this opposition. Mr. Chairman, everybody in Nebraska agrees that the Niobrara River is a treasure which should be preserved. Where we disagree is who should protect and manage the river.

Many of the citizens in my district are much concerned that this legislation is based on the false premise that the landowners are not taking good care of the river now, that they could not be trusted to take good care of the river in the future, and that the only entity that can be trusted to protect that river is the federal government.

Furthermore, Mr. Chairman, and members of the committee, no study has been conducted on the suitability of the Niobrara for addition to the federal Wild and Scenic Rivers System. It seems to me that in view of all the controversy we at least should be following the normal process of having a study before we act.

That is why I have introduced legislation, HR 1673, to require the National Park Service to study the Niobrara River, not just the 76 mile stretch referred to in this bill, but the entire Nebraska portion of the river 486 miles long, the longest river in Nebraska, to determine if any part of that river is suitable as a potential addition to the National Wild and Scenic Rivers System.

This would allow for public participation on the part of the people in Nebraska. This would allow us to study the various types of approaches—whether statement, county management, management by individual landowners, or by a group of organizations would be more satisfactory.

Governor Orr supports my bill. She says, and I will submit this for the record, "Given the complexities associated with the designation, given the local concerns that have been expressed, your efforts to perform a study have my full support."

I would be very pleased if you, Senator Exon, would join me in this effort.

I am not trying to stall. My bill provides that the study must be complete in just one year from the time the funds are provided.

Surely when the people out there have been taking care of that river for generations, we can wait one year to determine what kind of protection will best serve the area.

When the study is completed, I hope that we can all go together to come up with a program, a proposal to protect and manage the river that all of us can live with.

And now I would like to turn to our distinguished leader from Nebraska, Mr. Rufus Amis.

[The prepared statement of Mrs. Smith follows:]

TESTIMONY OF THE HONORABLE VIRGINIA SMITH

A REPRESENTATIVE FROM THE THIRD DISTRICT OF NEBRASKA

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

SENATOR DALE BUMPERS, CHAIRMAN

APRIL 5, 1989

S 280, NIOBRARA RIVER SCENIC RIVER DESIGNATION ACT OF 1989

Thank you, Mr. Chairman and members of the subcommittee, for this opportunity to testify on S 280, legislation to designate a 76-mile stretch of the Niobrara River as a component of the National Wild and Scenic Rivers System.

Mr. Chairman, before I begin my testimony on S 280, I want to express my concern that no field hearings have been held on the measure.

This legislation is contentious, to say the least.

Public sentiment is deeply divided in the four Nebraska counties this bill would affect, and I will explain more about this later.

I believe the Subcommittee would be well-served by going to northern Nebraska to listen to the concerns of the people--all the people, not just the three we have with us today--who would have to live with federal designation on a daily basis.

Those farmers and ranchers depend on the land along the river for their livelihood, and they deserve to be heard.

I ask that you consider holding field hearings before taking further action on the bill.

Now, as to the legislation before us, S 280.

My position, which I have stated often, is that I will support legislation to confer scenic designation on the Niobrara when I am convinced the local people agree that the federal government--as opposed to the private landowners, or local, county, or state government--should protect and manage the Niobrara.

To say there is no consensus among those local residents is an understatement.

A majority of landowners living along the Niobrara opposes the bill. Since January, in fact, I have received 75 letters from the area expressing opposition to the bill, and only three letters expressing support for the bill.

In addition, three of the four county commissions--Cherry County, Keya Paha County, and Brown County, as well as the neighboring Holt County Board of Supervisors--oppose the bill. I know of no county commission that supports the bill.

Area city councils--Ainsworth, Springview, Valentine, Atkinson, and Long Pine--oppose the bill. I know of no city council that supports the bill.

Area Natural Resources Districts--Ainsworth Irrigation District, Middle Niobrara Resources District, and Lower Niobrara Resources District--oppose the bill.

And the State Senator, Howard Lamb, who represents this area in the Nebraska Unicameral, from whom you will hear today, opposes the bill.

Mr. Chairman, there is extremely strong opposition to this bill.

Area residents believe the Niobrara is managed beautifully by the farmers and ranchers who live and work there, just as it has been for

generations--and the proponents of this legislation agree.

With this in mind, area residents resent the implication that they are not capable of properly managing the Niobrara, and that only the federal government--in the person of the National Park Service--can do the job.

Their concern, Mr. Chairman, is that this legislation is based on the false premise that the landowners are not taking good care of the river now, that they cannot be trusted to take care of the river in the future, and that the only entity that can be trusted with this responsibility is the federal government.

You will be interested to know about a report issued by the Nebraska Natural Resources Commission in 1986, after legislation similar to S 280 was introduced. The report, titled, "The Niobrara River: A Proposal for Scenic River Designation," was prepared at the request of my colleagues, Senator Exon and then-Governor Bob Kerrey.

After the publication of that report, the Nebraska Natural Natural Resources Commission unanimously passed a resolution stating, "The Natural Resources Commission strongly favors local involvement at this time and urges the local residents, through their elected representatives, to select and develop the appropriate means to preserve, protect, and manage the special values of the Niobrara River."

The legislation before us flies in the face of that finding.

I have other concerns about the legislation, Mr. Chairman.

Certain provisions of this bill are completely at odds with the original Wild and Scenic Rivers Act.

I hope you will agree that such a measure deserves careful study and review.

It concerns me, for example, that the bill authorizes the purchase of easements up to one-half mile on either side of the river, instead of the more standard quarter-mile.

I do not believe the topography necessitates the purchase of easements one-half mile from the river, and I doubt whether most private landowners appreciate this provision.

Further, Mr. Chairman, no study has been conducted on the suitability of the Niobrara for addition to the federal Wild and Scenic Rivers system.

In view of the controversy surrounding this legislation, I believe prefacing designation of the Niobrara with a study by the National Park Service is both sensible and prudent.

That is why I have introduced legislation, HR ????, to require the National Park Service to study the Niobrara River--not just the 76-mile stretch outlined in S 280, but the entire Nebraska portion of the river from the Wyoming-Nebraska line in the west to the Missouri River in the east--as a potential addition to the national Wild and Scenic Rivers system.

My legislation, which is supported by Nebraska Governor Kay Orr, would require the Park Service to include in its study an analysis of alternative methods of protecting and managing the river.

This could include protection or management by the state, by the counties, by the current landowners, or by a local public consortium or organization.

And, just as important, a Park Service study would allow full and

complete public participation.

I want the members of the Subcommittee to know that my legislation is not to be viewed as a stalling tactic.

When this study is complete, I pledge to work with area residents and the National Park Service to come up with legislation--based on the study--to come up with a protection and management scheme everyone can live with.

And I would be pleased to have Senator Exon join me in this effort.

In conclusion, Mr. Chairman, this legislation is deeply flawed, and it is not supported by most of the area residents it would impact every day.

You see, Mr. Chairman, everyone agrees that the Niobrara River is a treasure and should be preserved.

What we disagree upon, however, is who should protect and manage the river.

The proponents of this legislation seem to believe only the federal government can do that.

But I happen to believe there are other options available to us that would protect the Niobrara.

It would be in everyone's best interest to carefully study those options before conferring federal scenic designation on the Niobrara.

--30--

Senator ROCKEFELLER. Before the gentleman begins, I would like to point out that we have not had a time limit on those elected representatives who have spoken to the subcommittee this afternoon, but we have many people to hear on a variety of bills in a very short amount of time, so that we will now go under a five minute rule which will be strictly enforced by the chair.

So, you are welcome to begin, sir. But I remind you that if you plan to read all of that, it better be five minutes or less.

STATEMENT OF RUFUS AMIS, PAST PRESIDENT, NEBRASKA WATER RESOURCES ASSOCIATION

Mr. AMIS. Mr. Chairman, I am Rufus Amis, immediate Past President of Nebraska Water Resources Association.

I conducted business in the area affected by S. 280 for many years, and I know the area and its residents very well.

I have a farm near O'Neill, Nebraska, in neighboring Holt County for 20 years.

Mr. Chairman, I strongly oppose S. 280. Natural resources in the Niobrara Basin have been well managed by state and local agencies.

There is no evidence that the scenic and recreational qualities in the Niobrara River have deteriorated without federal management.

The justification for scenic river designation is unclear.

How can one argue that the federal action is necessary when there is no current evidence of resource deterioration nor any reason to be believed that resource management's problems will emerge in the future.

Many people in Niobrara Basin are offended by the suggestion of both federal protection and federal development guidance are needed to ensure that Niobrara resources are managed properly.

In addition, the Niobrara community is concerned about the impact of a scenic river designation on research management's flexibility.

Flexibility is needed to respond to continuous changing circumstances.

I believe that a public agency, private landowner partnership is essential to effective management of the region's resources.

This is why I support Congresswoman Virginia Smith's legislation, H.R. 1673, which would require that the National Park Service to study the effects of the scenic designation on the river resources as well as analyze alternate methods of managing the Niobrara River.

Thank you for allowing me to testify, and I have attached here 13 other points.

[The information follows:]

R. T. A. CO.

P.O. BOX 34001 OMAHA, NEBRASKA 68134
6441 IRVINGTON ROAD 402-571-1916

SUGGESTED MAJOR POINTS TO MAKE IN SENATE TESTIMONY
CONCERNING THE NIOBRARA SCENIC RIVER DESIGNATION

1. Natural resources in the Niobrara Basin have been well managed by state and local agencies. There is no evidence that the scenic and recreational qualities of the Niobrara River have deteriorated without federal management.

2. The justification for scenic river designation is unclear. How can one argue that federal action is necessary when there is no current evidence of resource deterioration, nor any reason to believe that resource management problems will emerge in the future?

3. Surveys conducted in the spring of 1989 indicate that 56 percent of the residents from the directly affected counties of Brown, Rock, Keya Paha and Cherry oppose the designation. The opposition is even greater among those in the affected counties who own a farm or ranch, with 68 percent opposed and 18 percent in support.

4. Many people in the Niobrara Basin are offended by the duel suggestion that both federal protection and federal development guidance are needed to insure that the Niobrara resources are managed properly.

5. The Niobrara community is concerned about the impact of a scenic river designation on resource management flexibility. Flexibility is needed to respond to continuously changing circumstances.

6. A public agency - private landowner partnership is essential to effective management of the regions resources. Landowners who are distrustful of federal resource management agencies and non-supportive of federal involvement are less likely to make the kinds of investments which are necessary for maintaining the scenic and recreational value of the Niobrara River and related resources.

7. NRD's and other local resource management agencies are presently cooperating in an attempt to secure funding for the development of a comprehensive resource management plan for the Niobrara Basin. Any planning effort which has a relatively narrow focus, such as a scenic river designation, is likely to lead to a biased or one-sided management plan which does not reflect optimum resource use for all competing needs over the long term.

8. A scenic river designation could preclude important water management alternatives. Of particular concern is the potential long term need for actions to slow the export of groundwater in the form of Niobrara River flows.

R. T. A. CO.

P.O. BOX 34001 OMAHA, NEBRASKA 68134
6441 IRVINGTON ROAD 402-571-1916

9. Under the terms of a scenic river designation, an eventual management plan could require stream flows for scenic and recreational purposes which adversely affect irrigated agriculture in the region. In particular, many people fear unnecessary restrictions on groundwater development in order to assure federally mandated flows in the Niobrara River for other purposes.

10. If the scenic river designation precludes future irrigation activity, the cost to the Niobrara Community and the State of Nebraska will be approximately $7,000 in net farm income and 1.0 jobs for every 100 irrigated acres.

11. The Niobrara community could incur a significant reduction in their property tax base due to purchase of private lands for public use. If only 50 percent of the $3.5 million which the bill would authorize for land purchases was used for fee simple land acquisitions (as opposed to easements), annual tax collections would still be reduced by about $35,000 per year.

12. A scenic river designation may reduce the economic contributions from recreational use of the Niobrara Basin by preventing the development of recreational activities which attract additional people and increased recreational spending. For example, the development of hunting, fishing and summer homes could contribute more to the community economically than the activities which are likely to be emphasized under a scenic river designation, such as canoeing and sight seeing.

13. There is little reason to expect an increase in recreation activity due to a scenic river designation, contrary to the claims made by Richard Walsh in his letter to Senator Exon's office dated October 26, 1987. A scenic river designation which will probably preclude intensive recreational development is unlikely to draw increased numbers of people to an area that is distant from population centers and interstate routes. The idea that a scenic river designation could magically produce recreational use equal to 40 percent of the rate of use of comparable resources near the population centers of the Colorado front range is ludicrous.

Senator ROCKEFELLER. Thank you very much.

Senator Burns, do you have any questions that you would like to direct?

Senator BURNS. I would just ask Mr. Amis a question since he lives up in that part of the country and has been around water development. And thank you, Mr. Chairman.

In these 76 miles that we are talking about here, has there been assessment of future water development or irrigation districts? Are there still possibilities of development in that area?

Mr. AMIS. Oh, I think so. It is pretty much on the back shelf right now, but that does not mean that it could not be brought forward.

Senator BURNS. That is the only question I have, Mr. Chairman. Thank you very much.

Senator ROCKEFELLER. Senator Exon.

Senator EXON. Thank you for that.

Thank you for the recognition.

Thank you for that question, Senator. It is a very good one, and it is the heart and soul of the matter that I want to get into.

Mr. Amis, you live in Omaha, Nebraska, do you not?

Mr. AMIS. Right.

Senator EXON. I just wanted to correct. He does not live in the area. I believe he owns a farm in the area. I believe that is what he testified.

Senator ROCKEFELLER. Oh, I see.

Senator EXON. What has been the nature of your involvement in that particular area including the Niobrara over the years?

Mr. AMIS. Well, I was—if you are getting at what business I was in—is that what you want to know?

Senator EXON. Well, I was just wondering. You do more than farming in that area, is that correct?

Mr. AMIS. I do not anymore. I was the Caterpillar dealer for eastern Nebraska and western Iowa for many, many years, but I have been out of that business nearly five years now. In fact, I am more or less retired.

But I am interested in Nebraska to see that it progresses and makes a business viable for our children and our children's children.

Senator EXON. Senator Burns' question had to do with other types of development in that area. Is it not true that you as a Caterpillar dealer from Omaha, Nebraska, were very much involved in the proposed Nordem Dam in that area, and did you not support it actively?

Mr. AMIS. I did support it and any other thing regarding Nebraska Water Resources. I was president of the Nebraska Water Resources some 15 years ago, and that was what our board of directors stood for.

Senator EXON. Thank you.

Mr. AMIS. And they are scattered from all over the state.

Senator EXON. I took it from the answers to the questions that you gave to the Senator from Wyoming that you feel that there is still a possibility of a Nordem Dam once again, is that right?

Mr. AMIS. No, I do not particularly think so. I do not know. I certainly—I think that anyplace in the state of Nebraska is not only

there or any other place that is beneficial for the state as a whole should be looked at.

Senator EXON. Including a Nordem Dam?

Mr. AMIS. Including a Nordem Dam, including Cedar Bluffs that I built 48 years ago.

Senator EXON. Mr. Chairman, this is the very crux of the situation, and it will not be acknowledged, but there still remains a feeling that the Nordem Dam that was defeated in the House of Representatives and turned down and is never going to be built is on the minds of an awful lot of people. They are still determined to build that dam.

I think they will never build that dam with the current delegation that we have representing Nebraska, but maybe if we are gone sometime, that dream will come true. It is never going to come to pass under the restrictions that we have budget-wise now, and I am fearful that that is the heart and soul of the opposition to the bill in question.

Let me ask this question of both you and Mrs. Smith. If a study was done as envisioned by H.R. 1673 and if that study indicated that we should proceed forthwith with a scenic river designation on the 76 miles of the Niobrara as envisioned in the bill introduced by myself and Senator Kerrey and Congressman Hoagland, would both of you be able now to say that if that would happen, you could support it after the study?

Mrs. SMITH. I think that when that study is complete, Senator Exon, if the folks in the area have had an opportunity for an input, yes, I feel we can all go together on whatever kind of an approach. I hope we can go together on whatever kind of an approach the study recommends.

Senator EXON. Well, then, you believe that if a study was done and it came generally along the lines of the present bill that I testified to here earlier today in support of the bill that I have introduced, you think that you could support that or are you saying you could not support it unless that all of the people in the local area supported it?

Mrs. SMITH. I say that I represent the people of that area and if there is a consensus for an approach, I certainly will support it.

Senator EXON. I will remind you that I represent the people of that area also. I am the United States Senator so it is not—I know you are very sincere in what you have to say, and I believe that.

My concern is, Mr. Chairman, that if a study is—the way it is being laid out here is simply a delay. If the study comes out the way we want it to, we will build it. If the study comes out to the contrary, we will not. That is not, in my opinion, the way that we should proceed. But at least I have had a chance to ask the question and make the points that I wanted to make.

And I thank you, Mr. Amos, and you, Mrs. Smith, for your testimony.

Senator ROCKEFELLER. Thank you, Senator Exon and—did you have something else, Congresswoman Smith?

Mrs. SMITH. Yes, I have these letters signed by the 30 landowners who are here today, and I would like to submit them along with

the resolutions from the cities, the county commissioners and the irrigation districts.

Senator ROCKEFELLER. They will each be a part of the public record, and I thank both you, Congresswoman, and you, Mr. Amos, very much.

[The information follows:]

VIRGINIA SMITH
3rd District, Nebraska

[illegible]
(202) [illegible]

COMMITTEE
APPROPRIATIONS
SUBCOMMITTEES
AGRICULTURE
ENERGY AND
WATER DEVELOPMENT

Congress of the United States
House of Representatives
Washington, D.C. 20515

March 10, 1989

Mr. Harlin D. Welch
Manager
Ainsworth Irrigation District
Rural Route 2, Box 82
Ainsworth, Nebraska 69210

Dear Harlin:

Thank you for sending a copy of a resolution expressing opposition to federal legislation designating the Niobrara River as a component of the National Wild and Scenic River system.

As you know, I believe any restrictions on the Niobrara, if it is determined they are necessary, should be made by state and local officials. This would provide a more flexible approach, and one better suited to the particular needs of landowners along the Niobrara.

Please know I will continue to oppose this legislation until a consensus in favor of the legislation is reached among local leaders and landowners.

Officials of the National Park Service confirm that the stretch of the Niobrara in question has never been studied to determine its suitability for designation as a scenic river. It is correct that Congress usually authorizes such a study before designating a river. I do not know why the sponsors of this legislation chose to introduce a designation bill before the completion of a study, and I suggest you direct your question to the sponsors.

Your questions, opinions, and suggestions about legislation and issues before Congress are always welcome and truly appreciated. Please continue to keep in touch.

With best wishes, I am

Sincerely,

VIRGINIA SMITH
Member of Congress

VS/sc*

April 3, 1989

Honorable Dale Bumpers
Chairman, Subcommittee on Public Lands,
National Parks and Forests
308 Dirksen Office Building
Washington, DC 20510

Dear Senator Bumpers:

We, the undersigned Nebraska leaders, oppose S 280, the Niobrara River Scenic River Designation Act of 1989.

We oppose the bill because no study has been done to determine the suitability of the Niobrara for inclusion in the National Wild and Scenic Rivers System. We also oppose the bill because no public hearings have been held to gather local opinions.

Further, we believe alternative methods of protecting and managing the Niobrara should be studied.

Sincerely,

Robert Gifford	Harrisburg, Ne.
Gifford Welsh	Brule, Ne.
Gavin A. Bell	Yutan, Ne.
Ronald Hargens	Lane - Ne
Doug Thorson	Wood River Ne.
William H. Haskins	Doniphan, NE
Carl Hanquist	Shelton Ne
Dick Mercer	Kearney NE
Tom Bishop	Grand Island, Ne
Tom Knutson	St Paul, Neb.
Allen Hostetler	Boelus NE

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April 3, 1989

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National Parks and Forests
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Sincerely,

Louis L Adams. Belgrade. NE
Roger Hellhorst Belgrade NE
Marjenn Vanderloop Cedar Rapids, Ne.
Anne Peterson Genoa, Ne.
Curtis Peterson Genoa, Ne.
James J. Vanderloop CEDAR RAPIDS NE 68627
Lee A. Sondeny Genoa, Ne. 68640
Michael J Shaufneary St Paul NE 68873
Donald E. Hughes P.O. Box 216 Scotia Ne 68875
Ronald Wolf Scotia, Ne 68875
Merlyn Schudel Scotia Ne 68875
Richard S. Russell RR1 Box 21 Fullerton Ne 68638
Donald E Kilday RR2 Box 89 Palmer neb. 68864

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National Parks and Forests
308 Dirksen Office Building
Washington, DC 20510

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Sincerely,

Alfred Drayton
D. T. Evans
Newcastle Nebr
Paul E. Pritta - Red Cloud, Nb.
Marilyn Pritta Red Cloud, Nb.

AN ANALYSIS OF THE POTENTIAL IMPACTS ASSOCIATED WITH THE PROPOSED NIOBRARA SCENIC RIVER DESIGNATION

Prepared by

Niobrara Basin Environmental Improvement
Commission
Mr. Donald Zwiebel, President
Ainsworth, Nebraska

With Assistance From

Raymond J. Supalla
Professor of Agricultural Economics
University of Nebraska-Lincoln

April 15, 1989

EXECUTIVE SUMMARY

The Niobrara Basin Environmental Improvement Commission and several other groups in the Niobrara Basin are deeply concerned about the implications of designating a portion of the Niobrara as a scenic river, as proposed by Senator Exon. Their major reasons for opposing a scenic river designation at this time include:

1. Natural resources in the Niobrara Basin have been well managed by state and local agencies. There is no evidence that the scenic and recreational qualities of the Niobrara River have deteriorated without federal management.

2. The justification for scenic river designation is unclear. How can one argue that federal action is necessary when there is no current evidence of resource deterioration, nor any reason to believe that resource management problems will emerge in the future?

3. Surveys conducted in the spring of 1989 indicate that 56 percent of the residents from the directly affected counties of Brown, Rock, Keya Paha and Cherry oppose the designation. The opposition is even greater among those in the affected counties who own a farm or ranch, with 68 percent opposed and 18 percent in support.

4. Many people in the Niobrara Basin are offended by the dual suggestion that both federal protection and federal development guidance are needed to insure that the Niobrara resources are managed properly.

5. The Niobrara community is concerned about the impact of a scenic river designation on resource management flexibility. Flexibility is needed to respond to continuously changing circumstances.

6. A public agency - private landowner partnership is essential to effective management of the regions resources. Landowners who are distrustful of federal resource management agencies and non-supportive of federal involvement are less likely to make the kinds of investments which are necessary for maintaining the scenic and recreational value of the Niobrara River and related resources.

7. NRD's and other local resource management agencies are presently cooperating in an attempt to secure funding for the development of a comprehensive resource management plan for the Niobrara Basin. Any planning effort which has a relatively narrow focus, such as a scenic river designation, is likely to lead to a biased or one-sided management plan which does not reflect optimum resource use for all competing needs over the long term.

8. A scenic river designation could preclude important water management alternatives. Of particular concern is the potential long term need for actions to slow the export of groundwater in the form of Niobrara River flows.

9. Under the terms of a scenic river designation, an eventual management plan could require stream flows for scenic and recreational purposes which adversely affect irrigated agriculture in the region. In particular, many people fear unnecessary restrictions on groundwater development in order to assure federally mandated flows in the Niobrara River for other purposes.

10. If the scenic river designation precludes future irrigation activity, the cost to the Niobrara Basin Area and the State of Nebraska will be approximately $7,000 in net farm income and 1.0 jobs for every 100 irrigated acres.

11. With a scenic river designation the Niobrara Basin could incur a significant reduction in their property tax base due to purchase of private lands for public use, reduced irrigation and reduced private investment.

12. A scenic river designation may reduce the economic contributions from recreational use of the Niobrara Basin by preventing the development of recreational activities which attract additional people and increased recreational spending.

13. There is little reason to expect an increase in recreation activity due to a scenic river designation, contrary to the claims made by Richard Walsh in his letter to Senator Exon's office dated October 26, 1987. A scenic river designation which will probably preclude intensive recreational development is unlikely to draw increased numbers of people to an area that is distant from population centers and interstate routes.

For these reasons the NBEIC opposes a scenic river designation at this time and supports further study to develop a comprehensive resource development plan for the Basin. The development of a comprehensive development plan would necessarily require extensive involvement by local resource management agencies.

98-094 O - 89 - 3

AN ANALYSIS OF THE POTENTIAL IMPACTS ASSOCIATED WITH THE PROPOSED NIOBRARA SCENIC RIVER DESIGNATION

Background

Senator J. James Exon (D. Neb) has introduced a bill in Congress which would designate a 76-mile stretch of the Niobrara River as a national scenic river under the federal Wild and Scenic Rivers Act. The purpose of the scenic designation is to preserve the existing condition of this portion of the Niobrara for recreational and scenic purposes. This proposal was first made in 1986, but after meeting with considerable controversy the bill was tabled with a request by Senator Exon that the Nebraska Natural Resources Commission study the issue. Although an abbreviated version of the requested study was completed in August 1986, the issue remained inactive at the federal level until Senator Exon reintroduced the legislation in January 1989. However, between 1986 and 1989 there was considerable activity at the local level. Keya Paha and Brown counties established zoning boards and the Middle Niobrara NRD has taken steps to improve public access to the Niobrara River.

Further study and a gestation period of three years has not reduced the intense local area opposition to the Niobrara Scenic River designation. Surveys conducted by SRI Research in the Spring of 1989 indicated that 56 percent of the residents from the directly affected counties of Brown, Rock, Keya Paha and Cherry opposed the designation, 28 percent favored it and 16 percent had no opinion. The opposition was still greater among those in the affected counties who owned a farm or ranch, with 68 percent opposed and 18 percent in support. Another survey has

shown that only 39 percent of the landowners within one-half mile of the river support the designation, while 41 percent oppose it. However, when expressed in terms of river frontage 62 percent supported the designation, while only 32 percent opposed it. What this means is that the large landowners within the immediate impact zone, such as Natures Conservancy, generally support the designation, while smaller landowners tend to oppose it. Finally, nearly every natural resource based organization in the Niobrara basin opposes the scenic river designation, including the Upper Niobrara Natural Resources District Board, the Middle Niobrara Natural Resources District Board, the Ainsworth Irrigation District and Resource Conservation and Development Council (RC&D).

Although local area opinion is quite solidly opposed to the scenic river designation, there does appear to be significant state-wide support for the proposal. A recent pole by SRI Research indicates that 74 percent of Nebraska residents support the designation, with 15 percent opposing it and 11 percent having no opinion. This difference in support between the locally affected area and all of Nebraska could be interpreted in several different ways. It could mean that the local people are more informed about the proposal than is true of people state-wide. It could also mean that people outside the local area perceive themselves as receiving many of the benefits of a scenic river designation, while the negative impacts occur more locally. All that is clear is that further analysis is needed before these wide differences in opinion can be understood and, perhaps, reconciled.

Purpose of Analysis

The purpose of this analysis was to address the reasons for opposition to the Niobrara scenic river designation. Senator Exon and others have addressed the reasons for supporting the designation. Perhaps by a careful analysis of the reasons for opposition we can better understand the differences of opinion and develop a policy for the Niobrara which people in the local area, as well as other Nebraskans, can support.

General Concerns

A review of the materials prepared by people and organizations which reside in the Niobrara basin indicates three general types of concern: resource management, economic, and ideological. In general, area people believe that a scenic river designation could limit their resource management options and reduce economic growth potential. They also distrust federal agencies and believe that the role of the federal government in resource management should be limited to cases where there is a clearly compelling national interest. These general topic areas are addressed in detail in the sections which follow.

Resource Management Concerns

Many of the people living in the Niobrara Basin are quite proud of how they have managed their natural resources. In discussions with local area people it is not unusual to hear them point with pride to their success in maintaining fragile sandhills grassland, and to their success in controlling erosion from the table lands. Even more frequent are the prideful references

to the scenic beauty and recreational value of the Niobrara River Basin. Indeed, it is not an exaggeration to note that many Niobrara area people have been insulted by the dual suggestion that the Niobrara needed both federal protection and federal development guidance. They regularly note, for example, that the values which Senator Exon seeks to protect were produced by the nurturing and stewardship of those who have resided in the area for more than a century.

The pride which the Niobrara Basin has taken in resource management is sharply reflected in many of their concerns over the proposed scenic river designation. The most pervasive resource management concern appears to be flexibility. Essentially, the Niobrara Basin has seen considerable change in resource management during the past century and they further believe that future generations need the flexibility to respond to continuously changing circumstances. Many people believe, for example, that flexibility may be needed to respond to a worsening stream bed and bank erosion problem and to the related effect on water availability. Still other flexibility concerns involve the potential need for hydropower development or for the augmentation of groundwater with surface water. The Wild and Scenic Rivers Act broadly defines "river" to include all tributaries of a designated reach. The Exon bill fails to narrow this scope of potentially restrictive impacts and presents the prospect of still further inflexibilities from the scenic river designation. Another resource management concern involves the need for resource management agencies to maintain good working relationships

with area landowners. A public-private partnership is essential to the effective management of the regions resources. Landowners who are distrustful of federal resource management agencies are less likely to make the kinds of investments which are necessary for maintaining the scenic and recreational value of the Niobrara River and related resources. Lack of landowner cooperation could cause public access problems and generally reduce the amount of new investment in the area. This concern seems to be justified in view of the fact that only 18 percent of landowners within the impacted counties support the scenic river designation.

Finally, it is important to note that the Niobrara Basin recognizes the need for more integrated management of the areas natural resources. The Middle Niobrara NRD, the Lower Niobrara NRD the Ainsworth Irrigation District, and the RC&D Council are currently cooperating in an effort to seek funding for the development of a comprehensive plan for the region. These local organizations believe that it is only through comprehensive planning that one can hope to achieve a proper balancing of the competing demands for the natural resources of the Niobrara Basin. They believe that any planning effort which has a relatively narrow focus, such as a scenic river designation is likely to lead to a biased or one-sided management plan which does not reflect optimum resource use for all competing needs over the long term.

Economic Concerns

The economic reasons for opposing the scenic river designation are generally related to the importance of maintaining the economic base of the Niobrara Basin. The local people are proud of their Community and place a high priority on maintaining an economic base which provides the jobs and income which are necessary for them and their children to remain in the local area. Essentially, they believe that a scenic river designation could adversely affect their local economy by reducing available water supplies and by limiting their economic development options.

The water supplies issue is especially important, because irrigated agriculture is the major component of the economic base for the Basin. The Niobrara Basin contains nearly 3,900 irrigation wells which irrigate 485,000 acres (Nebraska Agricultural Statistics, 1987). This acreage generates over $194,000,000 per year in gross sales of agricultural products, which when spent and respent produces $425,000,000 in total economic output and over 10,000 jobs. There is deep concern that a scenic river designation could make it difficult or impossible to sustain this level of economic activity over the long term.

The concerns over sustaining irrigated agriculture in the Niobrara region are due in part to the current level of groundwater mining in the area and also to the prospect that further groundwater supply problems may develop if the Niobrara River channel and tributaries continue to deepen. These concerns are reflected in the now defunct proposal to construct the Norden Dam and Irrigation Project (U.S. Department of Interior, 1971), and in the current proposal for constructing a recharge project as an

alternative to the Worden Dam (Nebraska Department of Water Resources, 1985).

The Niobrara River discharges over one million acre feet per year into the Missouri, about 70 percent of which is groundwater (Bentall and Shaffer, UNL Conservation and Survey Division, 1979). This outflow of groundwater from Nebraska will increase if the channels of the Niobrara River and its tributaries are cut deeper because of upstream erosion control or other factors. An increased outflow of groundwater will mean an acceleration in the rate of groundwater mining and a potential need to manage the flows of the Niobrara differently in the years ahead in order to sustain the economic activity from irrigated agriculture. The management flexibility necessary to deal with this problem may be lost or reduced if the scenic river designation is implemented.

Impact on Economic Development Options A second economic concern for the Niobrara Region is the possibility that a scenic river designation could constrain or limit the opportunities for economic development. The natural resources of the basin offers the potential for further development of many kinds of businesses related to recreation and tourism. For example, there are opportunities for the development of canoeing, fishing, hunting, camping and second homes. Some of these activities will surely be allowed or even encouraged by a scenic river designation, while others may be precluded by the scenic river planning process. The seriousness of this problem depends upon the results of the planning process which would follow the designation of the Niobrara as a scenic river.

Economic development of the area could also be adversely affected if the federal bureaucracy associated with a scenic river creates too much uncertainty. Economic development requires private investment, but if local developers view the situation as uncertain less private investment will occur. Significant uncertainty could occur because of an unpredictable scenic river bureaucracy or because of a general distrust of government. What is important is not whether the situation is really more uncertain, but whether local investors perceive the situation as more uncertain. At this point in time the investment climate in the area is very poor, because potential investors are confused and alarmed about the prospects for a scenic river. If this climate were to continue with the implementation of a scenic river, it is evident that private investment could be severely reduced.

Consequences of Reduced Economic Activity

Reduced economic activity due to either a reduction in irrigation or to less investment in economic development opportunities means fewer jobs, less income, less tax revenue and a generally poorer quality of life. Although the magnitude of these consequences is impossible to determine at this point, it does not take much of an absolute impact in a sparsely populated area such as the Niobrara Basin to be very significant. The loss of just a few hundred irrigated acres, or the failure to develop one or two recreational opportunities, would be difficult to compensate for or adjust to in the Niobrara area.

The potential local property tax impacts are especially worrisome. A loss of only 10 percent of Niobrara Basin irrigation, for example, would reduce property taxes by approximately $242,000 per year. In addition, the purchase of private lands for public use will remove property from the tax roles. If only 50 percent of the $3.5 million which the bill would authorize for land purchases was used for fee simple land acquisitions, as opposed to easements, annual tax collections would be reduced by about $35,000 per year. There may be additional reductions in potential property tax revenues due to reduced private investment. The resulting total impact could make it very difficult for a such a sparsely populated region to provide essential public services.

Another worrisome impact concerns the potential impact on available jobs. Rather small reductions in irrigation or in recreational activity would decrease employment by enough to cause serious difficulties in the community. Finding alternative employment for the 1000 people who would lose their jobs with a 10 percent reduction in irrigation, for example, would be very difficult. The most likely consequence would be out-migration to other areas leaving the Niobrara Basin with fewer people, lower property values, less income and a generally poorer quality of life.

Prospects for Positive Economic Impacts from a Niobrara Scenic River Designation

The potential for positive economic impacts from designating the Niobrara as a scenic river is quite limited. Positive economic impacts would occur only if the designation resulted in

greater use of the resources by recreationists, tourists or second home users. Some increase in recreation and tourism could be expected if there was reason to believe that designating the area as a scenic river would result in expanded development, improved public access, general improvements in the attractiveness of the Region, or in increased awareness of the Region. However, there is no evidence that resource improvements would occur. It is generally acknowledged that the area has been well maintained in the absence of a scenic river designation; public access has been a minor problem, but is presently being improved; and the development of recreational resources is likely to be reduced, not increased, by a scenic river designation. Although a scenic river designation might bring the area to the attention of increased numbers of users, the location of the Basin relative to population centers and transportation routes makes it unlikely that the result would be a substantial increase in use.

This assessment contrasts with the opinion of Richard Walsh, as stated in correspondence with Senator Exon. Walsh contended that a scenic river designation would significantly increase economic activity and tax revenues, but he did not justify or explain his opinion except to note that it was based upon the Colorado experience. With the wide differences which exist between the Niobrara Basin and the Colorado Rockies, such inferences are highly questionable.

Conclusions and Recommendations

This analysis of the potential impacts from a Niobrara scenic river designation makes it apparent that the bill proposed by Senator Exon is premature. It is not clear that a scenic river designation is needed for any purpose; the potential adverse impacts on the Niobrara community are sufficient to warrant grave concern; and the ambiguities in the Exon bill and in the designation process must be clarified before any action is taken. We accordingly recommend that the Exon bill be indefinitely tabled until it can be established that a scenic river designation is in the interest of the Niobrara Basin and the State of Nebraska. Any further efforts to assess the need for a scenic river should be much more thorough and specific than the very casual assessments which have been made to date and should involve local resource management agencies.

VIRGINIA SMITH
3D DISTRICT, NEBRASKA

2202 RAYBURN BUILDING
(202) 225-6435

COMMITTEE:
APPROPRIATIONS

SUBCOMMITTEES:
AGRICULTURE
ENERGY AND
WATER DEVELOPMENT

Congress of the United States
House of Representatives
Washington, DC 20515

April 6, 1989

The Honorable Dale Bumpers
Chairman
Subcommittee on Public Lands,
National Parks, and Forests
308 Dirksen Building
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are resolutions and letters I ask be made a part of the hearing record on S 280, the Niobrara River Scenic River Designation Act of 1989.

In addition, I ask that the three letters expressing opposition to S 280, which I left on the witness table at the conclusion of my testimony, be made a part of the record.

With best wishes, I am

Sincerely,

VIRGINIA SMITH
Member of Congress

VS/sc*

Enclosure

City of Atkinson

Box 519
ATKINSON, NEBRASKA 68713

MUNICIPAL OFFICES
Phone (402) 925-5313
Police Dept. (402) 925-2600

CITY CLERK
Nancy Kobe Ma, CMC
(402) 925-5313

MAYOR
Jerry Bisenius

COUNCILMEN
Paul Dorkle
Ken Krysl
Gary A. Lech
Paul Sager
John Vogel
Gerald Winings

February 22, 1989

Honorable Virginia Smith
House of Representatives
Washington, D.C. 20515

Dear Mrs. Smith:

Enclosed you will find a copy of a Resolution in regard to the Scenic River designation. As you can see the City Council is opposed to this designation.

We are asking you to take this in consideration when voting on this bill.

Sincerely,

Jerry Bisenius

Jerry Bisenius
Mayor

"FAIR HOUSING CITY"

EQUAL HOUSING OPPORTUNITY

RESOLUTION NO. 89-2

OF THE

CITY OF ATKINSON, NEBRASKA

WHEREAS, consideration is being given to designation of a portion of the Niobrara River as a "Scenic River", and

WHEREAS, such designation would be detrimental to the local community, Counties, State and Nation,

NOW, THEREFORE be it resolved by the City Council of Atkinson, Nebraska, that:

1. Designation of the Niobrara River or any portion thereof as a Scenic River or any similar designation is not in the best interest of local community, County or State. The Niobrara River is a valuable resource of water which may be needed in future years for domestic water use or production of energy and a designation as a Scenic River would forever prohibit this needed use. The local landowners, residents and communities do not want the Niobrara river to have a Scenic River designation.

2. The City of Atkinson, Nebraska, hereby opposes any Scenic River or similar designation for the Niobrara River or any portion thereof.

PASSED AND APPROVED this 6th day of February, 1989.

MAYOR

ATTEST:

Nancy Kopijka

CITY CLERK

(S E A L)

Seal

City of Valentine

P. O. Box 177 Valentine, Nebraska 69201 402-376-2323

February 20, 1989

The Honorable Virginia Smith
2202 Rayburn Building
Washington, D. C. 20515

Re: Niobrara River Scenic River Designation

Dear Congresswoman Smith:

This letter is to enclose a copy of the Public Hearing which the Valentine City Council held on February 20, 1989.

Several citizens attended the meeting, and certainly voiced their opinions. Upon closing the Public Hearing, the City Council moved unanimously to go on record in opposition to the scenic river proposal.

An excerpt of the City Council minutes is provided for your records.

Thank you for your interest in the Valentine area.

Sincerely,

Norma Jean New

Norma Jean New
for the City

CC: File
Environmental Improvement Commission

FEB 28 1989

CITY COUNCIL PRESIDENT-
Donald D. Petersen

CITY CLERK-
John Hanzlicek

CITY COUNCIL VICE PRESIDENT-
Janine Holmes

Wallace Balliet

Dennis Porath

Harold Linster

City of Valentine
Regular Council Meeting
Public Library Meeting Room
February 20, 1989
7:30 P.M.

Agenda Item #2

PURSUANT TO ADVERTISEMENT IN THE VALENTINE NEWSPAPER, A PUBLIC HEARING WILL BE HELD ON THE SCENIC RIVER DESIGNATION-COMMENTS AND COUNCIL ACTION (7:30 P.M.)

Pursuant to the advertisement in the Valentine Newspaper, Mayor Petersen opened the Public Hearing at 7:30 P.M. regarding the proposed Scenic River Designation. The citizens were asked to stand and state their name and place of residence.

Bill Quigley-Valentine, Nebraska. Mr. Quigley felt that the Scenic River Designation would be good for economic development and would be the best thing for tourism and recreation. He said that it would promote the area and that free publicity of the area would be achieved in the form of brochures, pamphlets etc... He stated that with the additional tourism and government support, money would be spent in our area for this activity.

Frank Egelhoff. He is in favor of the Scenic River Designation and that he has talked to other land owners who are also in favor of it. He said that the NRD was to build a campground site and have not done it yet.

Bill Ward-Valentine, Nebraska. Mr. Ward stated that the Cherry County Commissioners opposed the act and that it needs to belong to the people and not the government.

Lou Christensen-Sparks, Nebraska. Mr. Christensen is in favor of the act. His livelyhood is on the river. He said that a change of owners along the river front could hurt his business if the new owner did not maintain the river. He said that with the government in control of the river area the area would be protected.

Bob Gass-Valentine, Nebraska. Mr. Gass stated that the act should include the Niobrara River Basin. A study should be done before a designation is made. His question was "What impact will it have on the environment?".

Don Zwiebel-Ainsworth, Nebraska. Mr. Zwiebel stated that the act needs to look at the entire basin. He said that the water should be of concern and that the Scenic River Designation would hurt.

Al Conner-Sparks, Nebraska. Mr. Conner is against the Scenic River Designation for the fact that we do not need government intervention.

Hugh Potter-Valentine, Nebraska. Mr. Potter was against the Scenic River Designation. He felt that the land owner would not be treated fairly. His concern was if the area qualified as a scenic river and how the easements and payments to the land owners would be conducted.

Harlan Welch-Ainsworth, Nebraska. Mr. Welch was against the act. He said that Senator Exon's bill was not a good picture of what it is to be. Is it a scenic river designation or a recreational designation?. If it is a scenic river, there will be restrictions on what the land owner can do. The beauty of the river has been maintained by the current level of use of the river, would it stay that way?

Sally Conner-Valentine, Nebraska. Ms Conner was opposed to the Scenic River Designation. She wanted to know if the government would provide the necessary clean up and maintain the roads. She said that the area is scenic because of the current control by the landowners.

Wayne Olmsted-Valentine, Nebraska. Mr. Olmsted was against the bill and said that we would be protected out of our rights. The river area around Fort Niobrara is well protected and the appearance has not depreciated.

Lou Christensen-Sparks, Nebraska. With the scenic river legislation since 1962, land values have increased. The act would guarantee that what is there now would stay there.

Rick Bennett-Valentine, Nebraska. Mr. Bennett is against the Scenic River Act and has helped to circulate a petition against the act. He feels that we do not need government control.

Don Zwiebel-Ainsworth, Nebraska. Agrees that land values have gone up and that we should leave things the way they are.

Bill Quigley-Valentine, Nebraska. Stated that it sounds like people are against federal control and wanted to know how the people felt about a new sewer treatment plant being 90 per cent federally funded.

Roy Breuklander-Sparks, Nebraska. Mr. Breuklander was undecided on the issue. He wanted to know if the act was passed if there would be more outfitters on the river. The people along the river are doing a good job of taking care of the river.

Steve Breuklander-Sparks, Nebraska. He was in favor of the Scenic River Act and there would be a lot of changes with or without the designation.

Frank Egelhoff. Stated that there would be no charges to get out at drop points along the river and that restrooms would also be built.

Roy Breuklander-Sparks, Nebraska. Not everyone charges canoers to get out of the river.

The Public Hearing was closed at 8:16 P.M.

Councilman Petersen stated that he had caught part of the introduction of the bill on television and that the visual displays of the presentation showed government control going up beyond the river basin. His concern was that they would not be stopping with the act as written.

Councilman Petersen made the motion that the Valentine City Council will go on record being against the Scenic River Act. Second by Councilman Porath. Roll call vote: Aye-Petersen, Balliet, Holmes, Linster, Porath. Nay-none. Motion carried.

SEAL

I hereby swear and affirm that the above and foregoing is a true and accurate recording of the proceedings of the Valentine City Council meeting held February 20, 1989.

John Hanzlicek

John Hanzlicek
City Clerk

PROGRAMS
Erosion Prevention
Floodwater and Sediment Control
Flood Prevention
Soil Conservation
Pollution Control
Ground and Surface Water
Wildlife Habitat
Recreation and Parks
Forestry and Range

LOWER NIOBRARA

PHONE: (402) 775-2343

LOWER NIOBRARA
NATURAL RESOURCES DISTRICT

P. O. BOX 350
BUTTE, NEBRASKA 68722

February 14, 1989

Congresswoman Virginia Smith
U.S. House of Representatives
1005 Longworth Building
Washington, D.C. 20515

Honorable Congresswoman Smith:

The Lower Niobrara NRD was advised recently of proposed legislation which would designate a portion of the Niobrara River as a Scenic River. At the District's February 13, 1989 meeting the following motion was adopted by a vote of 11 for, 1 opposing, 2 abstaining.

The Lower Niobrara Natural Resources District opposes the Scenic River proposal of any portion of the Niobrara River until a funded, economic, water and land use plan is developed.

I am also enclosing a copy of a resolution adopted several years ago when a similar piece of legislation was proposed.

Sincerely,

Keith Drury

Keith Drury
District Manager

KD vf

cc: Middle Niobrara NRD
Nebraska Natural Resources Commission
Eldon Wesley, Chairman NARD
Governor Orr

Adopted June 2, 1986

RESOLUTION

WHEREAS, the Niobrara River Basin within the Lower Niobrara NRD has certain resources and qualities to be used and enjoyed by present and future generations; and

WHEREAS, local residents have demonstrated the capability to maintain and protect the Niobrara River Valley; and

WHEREAS, various polls taken have indicated local residents do not support a Federal Scenic River Designation of a portion of the Niobrara River; and

WHEREAS, local entities of government including counties and Natural Resources Districts have authorities capable of dealing with conservation, preservation and protection of local resources.

THEREFORE BE IT RESOLVED, the Lower Niobrara Natural Resources District opposes legislation designating a portion of the Niobrara River from the Borman Bridge to the Mariaville Bridge as a National Scenic River and encourages the Nebraska Natural Resources Commission to recommend to Senator Exon this proposed legislation be withdrawn.

BE IT FURTHER RESOLVED, the Lower Niobrara Natural Resources District will continue to assume its responsibilities in the protection and preservation of the Niobrara River Basin. The District will also be supportive of efforts of the Middle Niobrara NRD, Cherry, Keya Paha, Brown and Rock Counties in their efforts concerning the Basin.

RESOLUTION

WHEREAS, the Board of Directors of the Ainsworth Irrigation District, at a regular board meeting on December 13, 1988, passed and adopted this resolution.

WHEREAS, it is the feelings of the Board of Directors, that a Scenic River Designation on the Niobrara River, will not be in the best interest of the landowners in the Ainsworth Irrigation District Project.

WHEREAS, Senator J.J. Exon made a news release that he is going to introduce legislation again to designate 76 miles of the Niobrara River a Scenic River and would become a part of the Wild and Scenic River Act.

NOW, THEREFORE BE IT RESOLVED, by the Board of Directors of the Ainsworth Irrigation District, oppose a Scenic River Designation on the Niobrara River, because it will not be in the best interest of the landowners in the Ainsworth Irrigation District.

NOW, THEREFORE BE IT FURTHER RESOLVED, that a copy of this resolution be sent to all of Nebraska U.S. Representatives and the Governor of Nebraska.

Adopted this 13 day of December, 1988.

Brent Johnson

President - Brent Johnson

Danny Moody

Secretary-Treasurer - Danny Moody

City of Long Pine
P.O. Box 398
Long Pine, NE 69217

RESOLUTION

WHEREAS, recent statements by certain public officials indicate that federal legislation will again be introduced to designate part of the Niobrara River adjoining Brown County, Nebraska as a Scenic River under the Wild and Scenic Rivers Act; and

WHEREAS, the large majority of residents of the area and landowners along the Niobrara River are in opposition to such designation; and,

WHEREAS, such designation would have a severe adverse economic impact in Brown County, Nebraska; and,

WHEREAS, the ongoing actions of the County Government of Brown County, Nebraska, in establishing a Planning Commission and commencing necessary action to establish county zoning demonstrate that local action can and will provide all actions reasonably required to protect environmental concerns;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Long Pine, Nebraska, that the City of Long Pine oppose any proposed designation of the Niobrara River adjoining Brown County, Nebraska as a Scenic River under the Wild and Scenic Rivers Act for the reasons as stated above and for the further reason that such designation would not be in the best interest of the residents of Long Pine, Nebraska and the surrounding area.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Governor of the State of Nebraska and to all members of the Nebraska Congressional Delegation.

Passed and adopted this 3rd day of January, 1989.

ATTEST: CITY OF LONG PINE, NEBRASKA,

Beverly E. Newport
City Clerk

By Russell C. Dodd
Mayor

JAN 30 1989

CITY OF LONG PINE
PO BOX 398
LONG PINE NE 69217

OFFICE OF VILLAGE CLERK

OFFICE OF VILLAGE TREASURER

VILLAGE OF SPRINGVIEW

SPRINGVIEW, NEBRASKA

Following discussion relative to the matter of the proposed legislation to designate a portion of the Niobrara River as a Scenic River the following Resolution was introduced by Titus.

RESOLUTION

WHEREAS, it is apparent that legislation will be introduced in Congress to declare a part of the Niobrara River as a Scenic River, and

WHEREAS, such designation would put restrictions upon those land owners along any drainage that is a drainage to that part of the river designated as a Scenic River as well as all landowners within such Scenic River Corridor apparently without compensation, and

WHEREAS, it is evident that a large majority of the people and landowners living along the Niobrara River are against such designation, and

WHEREAS, such designation would have a severe adverse economic impact in Keya Paha County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of the Village of Springview go on record as totally opposed to the principal of designating a part of the Niobrara River as a Scenic River, and

BE IT FURTHER RESOLVED, that a copy of this Resolutionbe sent to Governor Kay Orr and to all members of the Nebraska Delegation in Washington, D.C.

Following the reading of said resolution it was moved by Titus that said resolution be passed. Motion seconded by Hallock. Voting in Favor: Titus, Hallock, Lewis, Mundorf and Swan. Opposed: None. Motion carried unanimously.

CERTIFICATE

I, D. C. Evans, Village Clerk in and for the Village of Springview, do hereby certify that the above and foregoing is a true and correct copy of the Resolution passed by the Village Board at their regular meeting on 12 January 1989.

D. C. Evans

Village Clerk.

Phone 376-2420

Office Of County Commissioners
CHERRY COUNTY
Valentine, Nebraska 69201

February 1, 1989

U.S. Rep. Virginia Smith
2202 Rayburn House Office Bldg.
Washington, DC 20515

Dear Virginia:

At the regular meeting of the Cherry County Board of Commissioners on January 31, 1989, a motion was unanimously passed, which motion re-affirmed the Board's position regarding the national scenic river designation being considered for the Niobrara River near Valentine.

A photocopy of a Resolution adopted by the Board on June 10, 1986 is enclosed herewith. Please know that the current Board strongly supports the position set forth in that Resolution.

This Board asks that you remain aware of their opposition to the scenic river designation as efforts to attain that status for the river continue.

For the Board,

Thomas E. Elliott
Cherry County Clerk

R E S O L U T I O N

WHEREAS, the United States Government has proposed that a a part of the Niobrara River in North central Nebraska be designated as a Scenic River, and,

WHEREAS, the County Board of Cherry County, Nebraska, has determined that additional Federal Government regulations and control of the Niobrara River and adjacent land is unnecessary, unworkable and interferes with operation of the County by the County Commissioners and further interferes with operation useability and enjoyment of the river and related real property by residents of and citizens of Cherry County, Nebraska and the State of Nebraska, generally.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF CHERRY COUNTY, NEBRASKA, that the County Board goes on record as being in opposition to designation of the Niobrara River in North central Nebraska as a Scenic River by the Government of the United States of America. Be it further resolved that the County Board of Cherry County, Nebraska, is in support of regulation or control of the Niobrara River area, when and where necessary by the local County Board and Local Natural Resource District.

DATED this 10th day of June, 1986.

COUNTY BOARD OF CHERRY COUNTY
COMMISSIONERS,

CHERRY COUNTY COUNTY CLERK SEAL NEBRASKA

BY: Gale Smith
Chairman

ATTEST: Darlene Burge
County Clerk

FILED 6-12-86
BOOK 1-Res. P. 150

OFFICE OF THE
County Clerk

Box 329
336-1762

O'Neill, Nebraska 68763

February 15, 1989

To: Virginia Smith

Re: Scenic River

I'm enclosing a copy of proceedings had by the Holt County Board of Supervisors which includes a resolution opposing the scenic river designation.

Hopefully, you will continue to maintain your present position as this matter is debated.

Thank you.

Gary Devall
Holt County Clerk

RESOLUTION #89-1
OF THE
HOLT COUNTY BOARD OF SUPERVISORS

WHEREAS: Man has been ordained as the guardian of our nation's natural resources; and

WHEREAS: Concerned farmers and ranchers living along the Niobrara River have long been wise stewards of this natural resource for the people of Nebraska; and

WHEREAS: Continued wise use of the Niobrara River is in the best interests of the people of Nebraska and the United States; and

WHEREAS: The Niobrara River has provided irrigation and livestock water for the people living along this river; and

WHEREAS: The people of North Central Nebraska have confidence in the continued wise use of this natural resource by the people who live along the Niobrara River; and

WHEREAS: Proposed efforts in Washington, D.C. to have part of the Niobrara River added to the National Wild and Scenic Rivers system, against the wishes of a majority of the people living along that river; and

WHEREAS: The proposed Wild and Scenic Rivers designation is merely a ploy to take away the future irrigation potential of this natural resouce for future Nebraska generations; and

WHEREAS: Local control rather than federal mandates has long been regarded as a hallmark of a free American people;

THEREFORE, BE IT RESOLVED, that the Holt County Board of Supervisors opposes any attempt to enter any portion of the Niobrara River into the Wild and Scenic Rivers system; and

The Holt County Board of Supervisors will continue to oppose such moves by groups which do not live near nor have vested interests in the continued well-being of the Niobrara River and the people who live along that river.

The foregoing resolution was introduced by Supervisor Reynoldson, who moved its adoption. The motion was seconded by Supervisor Funk. Voting Aye: Young, Reynoldson, Melcher, Schaaf, Funk, Davis and Krugman. Voting Nay: None Motion carried. Absent: None.

* *

STATE OF NEBRASKA } SS
HOLT COUNTY

I, the undersigned, County Clerk of Holt County, Nebraska, do hereby certify this to be a true copy of the original record as the same appears of record in this office.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my seal this 7th day of February 1982

COUNTY CLERK SEAL HOLT COUNTY, NEBRASKA

Holt County Clerk

AFTER 8 DAYS RETURN TO
MARILYN A. CALVER
COUNTY CLERK AND REGISTER OF DEEDS
CLERK OF DISTRICT COURT
AINSWORTH, NEBRASKA, 69210

RESOLUTION

WHEREAS, the Brown County Board of Commissioners are concerned with the effects of a Scenic River designation for the Niobrara River in North Central Nebraska;

WHEREAS, the Brown County Board of Commissioners have not been informed of the effect a Scenic River designation will have on the upkeep of roads;

WHEREAS, the Brown County Board of Commissioners have not been informed of the effect a Scenic River designation will have on the tributaries to the Niobrara River;

WHEREAS, the Brown County Board of Commissioners feel that Federal Controls would not benefit the General population of North Central Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Brown County Board of Commissioners that the County Board opposes the Scenic River designation for the Niobrara River in North Central Nebraska pending receipt of information regarding the effects of a Scenic River designation and assurances local concerns shall be considered and implemented.

Dated this 7th day of February, 1989.

ATTEST:

Marilyn A. Calver
County Clerk

William Budgel

Brown County Board of
Commissioners

Keya Paha County
Farm Bureau
Springview, NE 68778

February 8, 1989

Congresswoman Virginia Smith
2202 Rayburn House Bldg.
Washington, D. C. 20515

Dear Congresswoman Smith:

At the last regular board meeting of the Keya Paha County Farm Bureau, a motion was made to go on record opposing the Scenic River Designation for the Niobrara River. The motion was seconded and carried unanimously. Therefore, the Keya Paha County Farm Bureau goes on record opposing the Scenic River Designation for the Niobrara River.

Sincerely,

Gary Ludemann

Gary Ludemann, President
Keya Paha County Farm Bureau

RESOLUTION

Whereas, U.S. Senator J. James Exon has on July 19, 1985 announced his intention to introduce legislation designating a 76 mile stretch of the Niobrara River as a National Scenic River under the Wild and Scenic River Act of 1969; and

Whereas, the Niobrara River Basin Development Association has existed for more than 35 years and consists approximately of 150 members from the Wyoming border to the mouth of the River; and

Whereas, many landowners do not support the proposal and no field hearings have been held to gather their input; and

Whereas, the Niobrara River, its use and development, are of equal interest and importance to our cities and towns of this general area providing a supply for human consumption, domestic purposes and agriculture; and

Whereas, the Niobrara River watershed does not meet the definition required for Scenic River designation by being free of impoundments, still largely primitive and largely undeveloped but is an area of long established farms, ranches and numerous commercial developments; and

Whereas, it appears that the proposed legislation may be the result of political influence by, so called, environmental organizations who are opposed to development of water resources: and

Whereas, Senator Exon's proposed legislation includes an authorization of $3,500,000.00 for acquisition of interests and $1,000,000.00 for development which we believe to be without justification and wasteful expenditure of public funds in this time of distressed agricultural economics; and

Whereas, the opinion of the local people to be affected has not been taken into consideration and needs to be; and

Therefore be it resolved, that the Niobrara River Basin Development Association Board of Directors, at their regular Board Meeting at Ainsworth, Nebraska on July 26, 1985, object to the proposed legislation on the basis that it is unnecessary, it would be harmful to the economy of this agricultural area, and any benefits that might accrue would be to the canoe outfitters and a few landowners along the river and further that public hearings need to be held to gather input from the local people.

MIDDLE NIOBRARA NATURAL RESOURCES DISTRICT

RESOLUTION

OPPOSITION TO THE PROPOSED WILD AND SCENIC RIVER DESIGNATION

WHEREAS, Nebraska Senator Exon has decided to reintroduce legislation that would designate a 76 mile stretch of the Niobrara River as being Wild and Scenic; and

WHEREAS, Much of that proposed stretch of the Niobrara River lies within the Middle Niobrara Natural Resources District; and

WHEREAS, The Middle Niobrara Natural Resources District has joined with several other organizations in supporting an economic plan for the development of the land and water resources of the Niobrara River Basin.

NOW THEREFORE BE IT RESOLVED, That the Board of Directors of the Middle Niobrara Natural Resources District oppose the proposed scenic river designation until such a time that a an economic water and land use plan for the Niobrara River Basin is funded and developed.

ADOPTED ON THE NINTH DAY OF FEBRUARY NINETEEN HUNDRED EIGHTY-NINE

526 E. First St. Valentine, Nebraska 69201 Phone: 402-376-3241

JM
4/11
SV
to PL
Sub
FTR

1:54

2628 Cottage Row
Cedar Falls IA 5613
March 30, 1989

Senator Dale Bumpers, Chair
Subcommittee on Public Lands, National Parks and Forests
229 Senate Dirksen Building
Washington DC 20510

We are writing to express our opposition to the Niobrara Scenic River Designation Act. We own approximately one mile of the river bank on the south side of the Niobrara River just east of the Valentine Wildlife Refuge in Nebraska. Our ranch consists of 256 acres. Most of our land would be included in the scenic river corridor.

Following the introduction of the bill in 1985, Senator Exon asked the Nebraska Natural Resources Commission to do a feasibility study. After interviewing landowners and holding meetings, the commission issued its resolution on September 11, 1986:

> THEREFORE: The Natural Resources Commission strongly favors local involvement at this time and urges the local residents, through their elected representatives, to select and develop the appropriate means to preserve, protect, and manage the special values of the Niobrara River . . .

Mr. Kramper, Chairman of the Commission, recommended five to ten years be allowed for implementation of a plan by local governmental agencies. In spite of the resolution, Senator Exon introduced the bill a second time. Therefore, we oppose the Niobrara Scenic River Act for the following reasons:

1. Both sides of this issue, those for and those against the scenic river designation, agree that the landowners have been doing an excellent stewardship job. The bill is not necessary.

2. The local governmental bodies are moving forward and have a two-acre recreation site in place and others are planned.

3. Congress should not add 4.5 million in start-up funds to the 1989 deficit and the national debt! To our knowledge, there has been <u>no</u> written criticism of the stewardship of the land.

Senator Dale Bumpers
3/30/89
2

4. We are still very much against the bill as written. Each of the three segments has different restrictions for landowners. This goes against the basic idea of equal protection before the law for all affected landowners. The bill requires less protection above the Cornell Dam than the segments below. It is logical to assume that protection, if needed, should be most stringent in the upper segment of the proposed scenic river designation.

5. As landowners, we know that restrictive federal easements are time-consuming and difficult to work around. They have a serious, adverse effect on land values.

Thank you for your consideration of this problem.

Albert A. Potter

Albert A. Potter

Lois S. Potter

Lois S. Potter

c: Senator Tim Worth, Vice-chairman
Other members of the subcommittee

Senator BURNS. May I ask one question?

Senator ROCKEFELLER. Oh, of course. I'm sorry, Senator.

Senator BURNS. I just want to ask one question here. I only have one question since this has taken on a scenario here.

I notice that "A Nationwide Rivers Inventory," published by the National Park Service, identifies 253 miles of the Niobrara River as having potential for wild and scenic river designation. Do you have any idea why this specific 76 miles were chosen and not the rest of the 177?

Mrs. SMITH. That is one of the things that interests and concerns me, Senator. I think that we should study the whole river across Nebraska, all of the 486 miles, to see whether any of it or what part of it would lend itself to the wild and scenic river designation.

And let me say again, in my bill the study is limited to one year, so it would not delay action for whatever kind of a proposal we come up with.

Senator BURNS. Thank you very much. I appreciate that.

Senator EXON. May I answer that as the sponsor of the bill.

Senator BURNS. Yes.

Senator EXON. I appreciate your directing the question to me.

Senator BURNS. That would be fine.

Senator EXON. We chose that 76 miles because of the consensus in the area. The previous studies which have been done clearly indicate that that 76 mile stretch is by far the most scenic and pristine part of that particular area.

If we are going to try and designate an additional part of that river, even a mile further or two miles further, we are likely to run into the same local opposition that we have in the area that is being affected.

I would simply say, Mr. Chairman, that this evidently is a very cleverly designed scheme to get more opposition to the bill than we already have. That is why I said in my prepared testimony that I was against extending the designation further than 76 miles.

The message that we are sending here today in this hearing is that if this is delayed and if we do a study, then we are going to run the possibility that all of the Niobrara in Nebraska would be designated wild and scenic. I would not support that, and I think most of Nebraskans would not.

Mrs. SMITH. Mr. Chairman, may I make another comment?

Senator ROCKEFELLER. One more.

Mrs. SMITH. I resent being told that I am involved in a scheme, a nefarious type of scheme. I am representing the people of my area. I thought it would be well to study the whole Niobrara River across Nebraska so that we could see what part should have wild and scenic designation, if any part should.

The Park Services believes they should make a study. And the only previous study that I am well familiar with, Senator Exon, is the one that you and then-Governor Kerrey called for on the part of the Nebraska Resources Commission. And they came out with a strong recommendation that we have local involvement. Thank you very much, Mr. Chairman.

Senator EXON. Mr. Chairman.

Senator ROCKEFELLER. Senator Exon.

Senator EXON. I did not mean, Mrs. Smith, that you were trying to be anything other than straightforward in your approach. What I am saying is I think your approach is wrong in that I do not believe that we want to consider the possibility of extending the designation beyond the 76 miles.

But it is very clear from your testimony today that you not only want the 76 miles of the river to be studied for possible wild and scenic designation, but it could be all of the river. Is that right?

Thank you very much.

Senator ROCKEFELLER. The Chair would note that at 4 p.m. there will be no chairman of the subcommittee at all. We have three panels to go and I would like to get Denis Galvin back to the witness table to answer a few questions.

With respect to S. 280, you have advocated that the Niobrara be studied further before inclusion into the Wild and Scenic Rivers System. Have other rivers been added directly to the system without going through a formal study process?

Mr. GALVIN. Yes, Mr. Chairman. There are 119 Wild and Scenic Rivers that have been designated by Congress, some of which were designated without the kind of study we are calling for here, but the vast majority of those rivers, 74 of them, are substantially in the public estate: 25 in Oregon—25 in Alaska, 39 in Oregon and 10 in other places.

Almost all of those were surrounded by public lands and many of them were subject to other study provisions under the law. The Alaskan rivers were studied under the provisions of 17(d)(2) of ANILCA and the Oregon rivers were subject to Bureau of Land Management and Forest Service plans.

With respect to rivers involving mostly private lands, which the Niobrara is almost all private land, only two rivers have been designated by Congress out of those 119 and only one was designated without a 5(a) study. That is the Missouri River. So most of the Wild and Scenic Rivers that involve private lands have been subject to a 5(a) study authorized by Congress.

Senator ROCKEFELLER. If this bill were in fact enacted, what authority would the National Park Service have in fact over private land within the river corridor?

Mr. GALVIN. I believe the only authority that would be conferred by this bill is the authority to acquire easements by donation with the authority to condemn easements in those instances when activities detrimental to the character of the river take place. There would be no fee ownership under this bill.

Senator ROCKEFELLER. So that other than the condition which you have just mentioned there would be no other power, authority, coercive power, suggested power or any other power that could be exercised by the National Park Service?

Mr. GALVIN. That is correct.

Senator ROCKEFELLER. Senator Burns, do you have any questions that you would care to direct?

Senator BURNS. Thank you, Mr. Chairman. What is the reasoning behind extending the boundary of the designated half a mile from each side of the river in this legislation, rather than the approximate quarter mile provided for in the Wild and Scenic Rivers Act?

Mr. GALVIN. We do not know, Senator Burns and that is one of the points in our position that a study would answer. I assume that the answer to that, and it is an assumption on my part, is that it is a boundary chosen by the local interests referred to by Senator Exon. We believe a study would refine the appropriate boundaries and in some instances that might be a good deal less than a quarter of a mile and in other instances perhaps more. But the purpose of a 5(a) study, is to try to refine the boundary concept.

Senator BURNS. Is that measured from high water mark or the center of the river, or how is that determined?

Mr. GALVIN. I believe the Wild and Scenic River Act is from either bank—the ordinary high water mark.

Senator BURNS. I have no more questions.

Senator ROCKEFELLER. Senator Exon?

Senator EXON. Mr. Chairman, thank you very much. Let me ask just a brief question to Mr. Galvin. How long have you known of Nebraska's interest and Nebraska's representative's interest in the Wild—potential Wild and Scenic River designation for a portion of the Niobrara?

Mr. GALVIN. Well, in the mid-1960s as I say, portions of this river were identified as containing outstandingly remarkable resources. So there is a long history acknowledging the resource value of this river. There is not any question about that. It is on the inventory. In fact, more than this 76 miles is on the inventory.

Senator EXON. I was speaking primarily of the bill that myself and others have introduced with a specific 76 mile segment of the river. We have been talking about that now for several years. You and your Agency have known and we have had conversations with your Agency. Correct?

Mr. GALVIN. That is correct. That is my understanding, Senator.

Senator EXON. Have you any time previously insisted that we have a study done of this?

Mr. GALVIN. On this river, or——

Senator EXON. On this particular river.

Mr. GALVIN. I do not believe so, Senator, although it is common under the framework of the Wild and Scenic Rivers Act to have a 5(a) study.

Senator EXON. The Wild and Scenic Rivers Act, does it not, says that a Wild and Scenic River can be designated or mandated by the Congress or it can come into being after a study that has been done. Is that correct?

Mr. GALVIN. That is correct. Congress definitely has the authority to designate a Wild and Scenic River without a study and in fact must authorize a study.

Senator EXON. I guess what you are basically saying, then, is that up until this recent time you have never found it wise or prudent to suggest to us that a study should be done?

Mr. GALVIN. I am not aware of the discussions that took place with your staff, Senator, so I really am unable to answer that question. I can only say that the process of inventorying a river, doing a 5(a) study, and submitting it to Congress is a normal process for the National Park Service.

Senator EXON. Two years or more ago I introduced a very similar piece of legislation. Did your Agency at that time come forward and give any opposition to the proceeding until a study was done?

Mr. GALVIN. I do not know, Senator. I am sorry.

Senator EXON. Well, I appreciate that very much. Let me ask you this question. If my bill could be amended to provide for a study, then as I understand your testimony, that if that were in there then your organization would be in support of the bill.

Mr. GALVIN. That is precisely our position, Senator.

Senator EXON. How long do you think it would take to do such a study?

Mr. GALVIN. Two years.

Senator EXON. Two years?

Mr. GALVIN. Including the appointment of the advisory council called for in the bill. Two years would be consistent with other studies we have done and that includes a considerable amount of public involvement. Much of that time is spent sending draft alternatives back to the public and discussing with the public options to manage the river, to the boundaries, to the appropriate acquisition authorities.

Senator EXON. Are you familiar with the bill that has been recently introduced in the House of Representatives to do this study?

Mr. GALVIN. Only from hearing the testimony here this afternoon.

Senator EXON. Are you in support of that measure?

Mr. GALVIN. We have not taken a position on it, Senator.

Senator EXON. Are you familiar—at least, I am advised it provides that you would have to do this in one year. Could you do it in one year?

Mr. GALVIN. That is correct. That is certainly the testimony that was given here this afternoon.

Senator EXON. Can you do it in one year?

Mr. GALVIN. It would skimp on public involvement if we did it in one year. It is probably technically possible to do it in one year, but what would suffer is the periods of time available for the public to review the alternatives.

Senator EXON. Was your agency contacted by anyone to see how much time it would take to do this study?

Mr. GALVIN. I believe we provided some drafting service on that bill but we were not consulted as to the appropriate time span for the plan.

Senator EXON. Would the draft of the bill that you proposed outline a time frame?

Mr. GALVIN. The draft of the bill submitted in the House, you mean?

Senator EXON. I thought you said that you had made some suggestions with regard to a possible draft of the bill?

Mr. GALVIN. We were asked, I believe, to provide drafting service for the bill introduced in the House but the provisions of the bill with respect to the length of the study I believe were given to us.

Senator EXON. Were given to you?

Mr. GALVIN. The one year period. We were not asked, I believe, to recommend a study period.

Senator EXON. So you assisted in the drafting of the House legislation and approved the legislation to be introduced with a one year study when in fact you have testified today that you need two years to do it right.

Mr. GALVIN. When we drafted the legislation, as a courtesy we left the time period blank and we have taken no position on that bill.

Senator EXON. Why did you leave it blank?

Mr. GALVIN. So that the member who introduced the bill could specify a time period.

Senator EXON. Were you asked what the time period should be?

Mr. GALVIN. I do not believe so.

Senator EXON. Was there any discussion between anyone in the Congress and your organization about how much time should be provided in this bill?

Mr. GALVIN. No, Senator.

Senator EXON. So one year was just created in some way.

Mr. GALVIN. We submitted a blank bill and one year was——

Senator EXON. Had you been asked, would you have said two years?

Mr. GALVIN. Very likely. I have testified many times on Wild and Scenic Rivers bills and two years is the normal period. Obviously, we will take an official position on the bill if House hearings are held.

Senator EXON. What you are saying is—I guess what you are telling me then, when you say if my bill is amended to provide for such a study under Section 5(a) that you would support the outcome of that study before a Wild and Scenic River designation.

Mr. GALVIN. We would submit a study in the appropriate time period that will give our recommendations with respect to a Wild and Scenic River in that segment, in that 76 mile segment.

Senator EXON. Is there any question in your mind from what you know of the situation and your past history that it is very likely that such a study would indeed prove that a Wild and Scenic River designation would be in order?

Mr. GALVIN. Our previous identification of this river as containing outstandingly remarkable resources would lead me to believe that some designation would be the result of that study.

There are, however, options with respect to management. It might not be federally managed. Some of these rivers are managed by States. Some are even managed by local options. For Jackson, New Hampshire, in the last session, the 100th Congress passed a bill in which the locality assumed jurisdiction for a portion of the river. Other rivers are State designations.

So there are options with respect to management, but with respect to the qualities of this river it appears from our previous identification of the river that it does possess those characteristics that would make it a Wild and Scenic River.

Senator EXON. Thank you, Mr. Chairman. Thank you, Mr. Galvin.

Senator ROCKEFELLER. Thank you, Senator Exon. Mr. Galvin,

may I ask you to submit your testimony on S.338 and I will direct to you two questions, not now but in writing, which I would hope I would have your prompt response on.

Mr. GALVIN. Yes, Mr. Chairman. We would be happy to provide a response and we will submit the statement for the record.

[The prepared statement of Mr. Galvin on S.338, follows:]

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S.338, A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO PROVIDE FOR THE DEVELOPMENT OF A TRAILS INTERPRETATION CENTER IN THE CITY OF COUNCIL BLUFFS, IOWA.

April 5, 1989

Mr. Chairman, I appreciate the opportunity to provide your committee with the views of the Department of the Interior on S.338.

We recommend that S.338 not be enacted.

S.338 would direct the Secretary of the Interior within 1 year to complete a plan and design for a trails interpretation center in Council Bluffs, Iowa. The purpose of the center is to interpret the history of development and use in Iowa and the adjacent region of three designated historic trails--the Lewis and Clark, Mormon Pioneer, and the Oregon National Historic Trails.

The bill authorizes the Secretary to acquire lands by donation, purchase, or exchange, to construct an interpretive center on the lands acquired, and to enter into cooperative agreements with the State of Iowa, the City of Council Bluffs, and other public or private entities for the operation and maintenance of the center.

Subsection 2(d) of the bill limits the Federal share of the cost of planning, acquisition, and development to 80 percent of such costs or $10 million, whichever is less.

Subsection 2(d) waives any restriction under Economic Development Administration regulations on the use or transfer of non-Federal property if the Secretary accepts a donation of such restricted property for development of the center.

The routes of three national historic trails cross in the vicinity of Council Bluffs, Iowa--the Lewis and Clark, the Mormon

Pioneer, and the Oregon Trail. In 1986, the city of Council Bluffs and interested citizens requested the National Park Service office in Omaha to provide technical advice on ways in which these three trails could be interpreted to promote tourism and recreation in the area. The regional office recommended that the State and city governments form a partnership with private interests to develop interpretive programs and materials. The National Park Service offered to provide technical assistance in planning and preparation of materials.

We believe our role should be limited to providing technical assistance to the city and private interests, which we can provide under existing authority. While we have made no formal estimates of the costs of the proposed center, we understand from staff discussions with the city and other proponents that a development cost of as much as $30 million is being considered. We cannot support Federal funds for such a project. There is no historic fabric here that would be preserved and protected, and the Center would be contemporary construction. We believe, in light of the scarce Federal dollars available for new and existing parks, that our funds should be spent on high priority resource needs instead.

Under section 7(c) of the National Trails System Act, the Secretary is already authorized to provide for trail interpretation sites at historic sites along the route of any national historic trail. However, of the management plans that we prepared for each of the three trails whose route crosses the Council Bluffs area, none recommended that a trail interpretation site be developed at the site proposed earlier by the city.

It also should be noted that the State of Missouri and the city of Independence are currently developing a major historic trail interpretive center, known as the Frontier Trails Center, with State, local, and private funds. This center will focus on the Oregon, California, and Santa Fe Trails. We believe this

approach is preferable to Federal construction, as proposed by S.338 for Council Bluffs.

We believe a trails interpretation center, as proposed by the city and Chamber of Commerce of Council Bluffs, is a worthwhile effort if developed by State, municipal, and private interests. We offered to provide technical assistance, and that offer still stands. However, because the site has no historic significance, because of the costs involved, and because existing law is adequate to provide for any trail interpretation that might be appropriate for the three trails involved, we cannot support the provisions of S.338.

This concludes my prepared remarks, Mr. Chairman. I would be pleased to respond to any questions you may have.

Senator ROCKEFELLER. Very good. Thank you very much, Mr. Galvin. Senator Burns.

Senator BURNS. Excuse me. Mr. Chairman, can we ask some questions on S. 338 or are we going to go on to the next panel?

Senator ROCKEFELLER. That is perfectly fair, because I had not understood there to be controversy on that but you certainly may. You certainly may.

Senator BURNS. In the interests of time I can submit them for the record and let us just proceed with what you have in mind.

Senator ROCKEFELLER. You are sure?

Senator BURNS. Yes. I can get them done.

[COMMITTEE NOTE.—The committee sent the following questions to the Department of the Interior for its response on April 6, 1989. As of the date of printing of this document, the committee has not received responses to those questions.]

SUBMITTED BY SENATOR DALE BUMPERS

QUESTIONS FOR DENIS GALVIN, DEPUTY DIRECTOR

S. 280 - Niobrara River

o Could you please describe the ecological significance of the Niobrara River and the surrounding area?

o If this measure were enacted, what role would you envision for the Niobrara Scenic River Advisory Council in the management of the river corridor?

S. 338 - Western Historic Trail Center

o Does the Park Service have within its jurisdiction any interpretative centers where the history of the pioneer movement is explained --- in particular the development and use of the Lewis and Clark National Historic Trail, the Mormon Pioneer National Historic Trail, and the Oregon National Historic Trail?

o Do you have an estimate of the cost of the interpretative center authorized in S. 338?

Questions from Senator Burns:

S. 338 (Trail Center)

QUESTION FOR DENIS GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE:

MR. GALVIN, IF THIS TRAIL CENTER AND RELATED FACILITIES WERE CONSTRUCTED, WOULD THIS BECOME A UNIT OF THE NATIONAL PARK SERVICE?

WHO WOULD OPERATE THE CENTER?

WHO WOULD PROVIDE FUNDS FOR MAINTENANCE AND UPKEEP OF THESE FACILITIES?

WHILE THE COST TO THE FEDERAL GOVERNMENT WOULD BE 10 MILLION DOLLARS, IS THERE ANY COMMITMENT ON BEHALF OF THE CITY AND/OR CHAMBER OF COMMERCE OF COUNCIL BLUFFS TO OBLIGATE UP TO 20 MILLION DOLLARS TOWARD THIS DEVELOPMENT?

I UNDERSTAND THE PROPOSED SITE IS NEAR THE MISSOURI RIVER. IS THIS SITE WITHIN THE FLOOD PLAIN?

HOW MANY VISITORS WOULD USE THESE FACILITIES ON AN ANNUAL BASIS?

IN YOUR OPINION, IS AN EXPENDITURE OF 30 MILLION DOLLARS AN APPROPRIATE AMOUNT OF DEVELOPMENT FOR THIS AMOUNT OF VISITATION?

HAVE ANY STUDIES BEEN CONDUCTED TO SHOW THERE IS A LARGE CONSTITUENCY OF PEOPLE WHO WOULD WANT TO USE THESE FACILITIES?

WHERE IS THE DOG TRACK IN RELATION TO THE PROPOSED SITE?

If the dog track is directly across from the site:
WOULD THESE FACILITIES BE USED FOR OVERFLOW PARKING FOR THE DOG TRACK?

Senator ROCKEFELLER. Okay. My only problem is——

Senator BURNS. That we are going to run out of time.

Senator ROCKEFELLER. Yes. That I have a very wonderful man from West Virginia who wants to donate property to the National Park Service and if he is not able to do so in the next 12 minutes it would be a great tragedy.

So that I would ask, before we resume the matter of the Niobrara River, which we will immediately after presentation by Bradley Nash of Harpers Ferry, West Virginia, Brad Nash, if you would come forward I would be very grateful. You know that I must put on the five minute rule also, for you, although you have been elected to many positions many times.

STATEMENT OF BRADLEY D. NASH, HARPERS FERRY, WV

Mr. NASH. It will be much less than that, I am sure. First, however, I do want to thank you very much for your generous remarks and best wishes. I must say that as one enters one's 90th year one is less interested in credit than one is in absolution and I presume your wishes include absolution. [Laughter]

There is a short message here which is available to the recording officer. There are also pictures here from the Corcoran Gallery. A painting was made in 1862 of this entire territory. I am sure you have copies. They are available for the Senate as are the statements. Now the statement, as I say is civil.

My name is Bradley Nash. I am a resident of Harpers Ferry and have served as mayor of that small town for a dozen years, between 1971 and 1986. I last appeared before a similar Committee in 1974 at the invitation of Senator Randolph on a like manner, which then received favorable action.

The purpose of my appearance before this Committee is to urge favorable action on Senate Bill 85, which increases the permitted acreage of the Harpers Ferry National Park from 2,475 acres by 65 acres to a total of 2,540. This small increase will fold in contiguous property upon which Civil War battles were fought, where Stonewall Jackson captured the Union garrison of 12,500 men, enabling him to join General Lee's forces at Antietam.

More importantly, Abraham Lincoln reviewed Union troops here shortly after Antietam. Also more important, George Washington surveyed the area and the subject property was part of the United States Armory and Arsenal acreage which George Washington successfully urged Congress to construct in 1794.

In other words, this is not purely history of Harpers Ferry, the Civil War, John Brown. It also very definitely includes George Washington who spent much time there and the major part of whose family reside in Charleston, the county seat.

This is a two-prong benefit. Aside from the basic historic values, the acreage provides a spectacular view of the Harpers Ferry Gap in the Blue Ridge where the Shenandoah River joins the Potomac to flow on as the "Nation's river" to Washington, the Chesapeake Bay and the sea.

Open space is already at a very great premium North and West of Washington. Here, within 50 to 60 miles of Washington and Baltimore there will be added precious open sky space.

The history of Central Park in New York City is that, a century ago, Frederick Law Olmstead's proposal for that park only survived by one or two votes in the New York City Council, many members of which believed the planned area was too far uptown, too costly and too fanciful. Imagine, if one can, Manhattan Island without that God-given patch of daylight in its center.

If one cannot imagine it, think of Sao Paulo in Brazil, population 15 million, a city without any open spaces of park at all—a complete asphalt jungle composed of and surrounded by concrete and cement upon which humanity is sadly dumped.

The small acreage here involved opens up the mountain and river environment splendidly and allows a much greater concept of the natural beauty of the area.

A further and third prong to my argument is pertinent. The property is a donation without reservation and without cost to the Federal Government. Since it is a wildlife sanctuary there will be no cost of maintenance other than the simple prevention of forest fires and that kind of activity.

I very much hope that the Committee, the Senate and the Congress will act favorably on Senate 85.

Senator ROCKEFELLER. Brad Nash, when I see you and think of you many thoughts come to mind. Obviously the one for this afternoon, but I think of your great friendship for my Uncle Nelson over many years I think of your great friendship for Jennings Randolph and Senator Byrd over many years and I think of your great friendship for me over many years and I think of your extraordinary devotion to West Virginia.

This, what you are doing, what you are offering is extremely important. It is something which is rarely done by individuals. People usually want to sell something and get something in return and you do not. That does not surprise me in knowing you. That is characteristic of you. But I think nevertheless it ought to be noted in the public record that you exhibit the high-minded qualities on this day, the day before your 89th birthday, as you did when you served with President Eisenhower and many others for many years.

So let this junior Senator from West Virginia ask you merely one question and pay you great honor and great respect.

Mr. NASH. Senator, thank you.

Senator ROCKEFELLER. My question would be, there was a question raised by the National Park Service and that was, would you object to an amendment to S. 85 that would give the Park Service the authority to clear the necessary title?

Mr. NASH. No, I would certainly very much hope so with no objection or reservation. The territory, I can assure you, since I have owned it, starting 1950 has been gone over and over and as I say this property was acquired in fee simple many years ago.

Senator ROCKEFELLER. Senator Burns I just would commend to you that there would be more citizens like Bradley Nash across this country. He is a remarkable person, a historian and a man who loves this country greatly.

Senator BURNS. Thank you, Mr. Chairman. I would add to that statement and may I also add to the greetings for your 89th birthday tomorrow.

Mr. NASH. Thank you so much. I am very moved and I thank you.

Senator ROCKEFELLER. Thank you sir, very much.

We now move on to the next panel, which is George Lincoln, Chief Executive Officer of Lincoln Industries, Inc., Lincoln, Nebraska; Beryl Kuhre, I hope I have pronounced that correctly, from Johnstown, Nebraska and Allen Steuter—I did pronounce that correctly—director of Science and Stewardship, Niobrara Valley Preserve, Johnstown, Nebraska. If you would come forward please, as a panel, and sit at the witness table we will be glad to hear your testimony and why do we not start with you, in the middle.

STATEMENT OF BERYL KUHRE, JOHNSTOWN, NE

Ms. KUHRE. Thank you. I am Beryl Kuhre of Johnstown, Nebraska and I favor S. 280.

Being a member for 40 years of the Kuhre family, who pioneered along the river valley for 100 years, I have known some of the hardships but I have known the love of the river as we have walked along its banks. I know of its many values which qualify it for its inclusion in the National Wild and Scenic River System. The Niobrara possesses scenic, recreation, fish and wildlife, geologic, paleontologic, cultural and other similar values. It also has agricultural values along the river.

The scenic values of the Niobrara Valley are spectacular. High bluffs, with scattered ponderosa pines extending along much of the north rim. Canyons with paper birch and waterfalls characterize the southern bank of the valley east of Valentine and throughout the entire reach. There are groves of bur oak and cedar interlaced with the rolling hills carpeted with the native prairie grassland.

Being in the canoe business with my late husband, Lauren Kuhre and now I am a canoe outfitter for three years, working alone, I feel the upper stretch between Valentine and the Nordem Bridge is the most popular and most suited for canoeing and the camping areas. I have seen many changes in the river, both good and bad.

I am one of the three widows that the Nordem dam and the scenic river has caused from the stress, from the proponents of the dam, and I feel great value toward the Niobrara River.

I feel all Nebraskans, all people who favor God's creation, should be proud to have this beautiful river under this comprehensive plan for the protection of its river and its beauty.

Senator BURNS. Okay. Thank you very much. We have got a new chairman now and it is a sort of baptism by fire, so you will have to excuse me. It has been noted that Congressman Hoagland has just arrived and could we have his testimony at this time? If you will just approach the table over here, Congressman and I think you have some comments in regard to this legislation.

STATEMENT OF HON. PETER HOAGLAND, U.S. REPRESENTATIVE FROM NEBRASKA

Mr. HOAGLAND. Well, I do Mr. Chairman and let me say initially, I appreciate your taking me out of order. We are going to caucus on the Banking Committee on the Administration's Savings &

Loan bill and I did need to get back and I appreciate very much your allowing me to testify in this fashion.

I am proud to be sponsoring Senator Exon's bill in the House, along with Representative Udall and other colleagues. Let me say that in Nebraska we are very concerned about our soil resources and our water resources. We are very conservation-oriented.

The history of the way that we as an agricultural state treat and care for our land is something we can be very proud of in Nebraska. We have a long tradition of very carefully preserving our resources and I know that the people in the State of Nebraska are overwhelmingly behind this bill.

The Omaha World-Herald did a State-wide poll on the bill several weeks ago and I am sure you have those results in your Committee files but I believe in excess of 85 percent of the people Statewide think that the Niobrara River must be preserved.

I am strongly in favor of the bill and I applaud the tremendous efforts and leadership that Senator Exon has shown on this issue through the years. I think we need to move quickly on the bill and I hope that this committee will resist any attempts to delay enactment of the bill because every year we delay why, there are that many more inconsistent uses that need to be accounted for, perhaps need to be grandfathered.

I think really it is important that we act swiftly. It is important that both Houses of Congress follow Senator Exon's sure hand on this issue and I want to assure you, Mr. Chairman and Senator Exon, or other members of the committee that I will do everything I can to bring about speedy passage of the measure in the House of Representatives.

Senator EXON. Mr. Chairman, I would just like to thank my friend and colleague Peter Hoagland from the 2d Congressional District for coming over today and you have been an invaluable help in this and once again you sum things up very well. Thanks for taking time out of a very busy day and the designation is important, so is the S&L problem and I will not hold you up any further.

While I have the floor I just want to, since I was out when this panel started here, Al and Beryl and George are three people that have been through the mill on this one and I appreciate very much their coming here to testify today.

Senator BURNS. Thank you, Senator. Thank you, Congressman and we appreciate your coming here today.

We will hear testimony now from George Lincoln, who is Chief Executive Officer, Lincoln Industries, of Lincoln, Nebraska.

STATEMENT OF GEORGE A. LINCOLN, CHIEF EXECUTIVE OFFICER, LINCOLN INDUSTRIES, INC., LINCOLN, NE

Mr. LINCOLN. Mr. Chairman, I am George Lincoln, Chief Executive Officer of Lincoln Industries of Lincoln, Nebraska. The 25 Corporation, of which I am president, owns land along the Niobrara River within the segment proposed for Scenic River Designation. My family and I have a cow-calf operation there in Brown and Rock Counties. I spend at least two and a half months a year on

the ranch and therefore have a knowledge of this section of the river.

This 76 mile stretch of the river is unique both in its ecology and its beauty. Due to its uniqueness and beauty and the recreation the river affords, many people travel there to enjoy its unspoiled beauty. It is virtually unchanged since the days of the Sioux and the buffalo. With the exception of a few ranch buildings and a few roads it is as Mother Nature has molded it.

The ranchers of this area have done a superb job of protecting and preserving this area, but they cannot protect it from State and Federal encroachment nor from commercialization of the river.

This area needs the help of the Scenic River designation to preserve the beauty and the ecology of the area for the present and future generations that quite often escape from the glitz, the chrome, dirt, smog and frustrations of many urban areas. Perhaps the next generations can still see it—with few exceptions—as the Sioux and the buffalo did.

I thank you.

Senator BURNS. Mr. Lincoln I have a question. I note that you mention the ranchers have done a superb job of protecting and preserving this area, but they cannot protect it from State and Federal encroachment. What are the State and Federal Governments doing to damage that resource?

Mr. LINCOLN. Well, we had a situation a while back on the proposed Nordem Dam and with the right of eminent domain that land is always in danger of encroachment whether it is done today or in the future.

Senator BURNS. I would follow that up that the bill provides for the acquisition of private land without the consent of the owner. If activities are, and I quote, "occurring or threatening to occur" that might "pose a substantial threat to the integrity of the river and the values for which it was designated", subservice rights are then excluded from this provision. What type of activities do you anticipate that would require such an action?

Mr. LINCOLN. Well, I could see commercialization of the river. I could see a condemnation proceeding to put in some type of irrigation project. Whatever some fertile minds can think up, and I find no fault with the way the rancher will handle it, as he has handled it, but many times he is not in control of his own destiny.

Senator BURNS. I know that conflict. Do you have any questions, Senator Exon?

Senator EXON. I do not think I have any other questions. I would just maybe like to ask this question. I think all too few people fully appreciate what we have up there and how it is attracting the covetous eyes of lots of people today, I suspect and those—I guess I am concerned about the fact that if we open this up and hold off any action for another two years, I think we have been fortunate to get by as well as we have.

There is not any question but what the farmers and ranchers have done a good job in that area today and I think we all agree with that. The problem is, how long is that going to last? The problem is, what would we have in Yellowstone National Park today if we did not have restrictions on some of the exploitation that could go in there.

Sooner or later development interests are going to find out about that and it is going to be, Katy bar the door. I suspect that you folks feel it would be quite dangerous if we would, you know, just automatically delay doing anything for two years?

Mr. LINCOLN. Delay does not create anything but more problems. Expediency is the object today.

Senator EXON. Do you agree with that, Beryl and Al?

Ms. KUHRE. I certainly do.

Mr. STEUTER. I think so.

Senator EXON. Let me ask this question, you heard the discussion here today about the possibility of doing a study to, you know, study the whole Niobrara under this provision. How do you think that would wash in that part of Nebraska?

Mr. LINCOLN. Well, it would wash. It would wash, but it would not come out clean. There are a lot of parts of that river that is nothing but grass on both sides and to study that and delay it—you know, it is awful easy to throw up a smoke screen and try and diffuse and confuse the objective.

Senator EXON. Beryl, any comment?

Ms. KUHRE. Yes. I was one of the people that got to see some of the study done by the Bureau and we just happened to stop and visit with them when they were doing the bird study and they had their bird books running around wondering just which kind of a bird that was. If there is a study, may there be one that people really are qualified. But I certainly say, let us go with it.

Senator EXON. Al, any comment?

Mr. STEUTER. No. I will defer to the other two.

Senator EXON. Thank you. Thank you, Mr. Chairman. I have no further comment. Thanks for coming.

Senator BURNS. Let me introduce at this time, then, for his statement, Allen Steuter. Is that the correct pronunciation?

Mr. STEUTER. Steuter.

Senator BURNS. Mr. Steuter is the Director of Science and Stewardship of the Niobrara Valley Preserve from Johnstown, Nebraska.

STATEMENT OF ALLEN A. STEUTER, DIRECTOR OF SCIENCE AND STEWARDSHIP, NIOBRARA VALLEY PRESERVE, THE NATURE CONSERVANCY

Mr. STEUTER. Mr. Chairman, thank you for allowing me to comment on Senate Bill 280. We enthusiastically support Senators Exon and Kerrey in this effort to provide increased recognition of the unique natural resources of the Middle Niobrara Valley through a balanced effort of preservation and coordinated resource management.

In 1980 the Nature Conservancy purchased approximately 52,000 acres in this general area as part of our private efforts to protect the biological diversity of the valley. Approximately 21 miles of river front land are included in the preserve and also within the proposed scenic corridor.

As typical, following our purchase we conducted an extensive inventory of the biological features and very much supported the previous scientific work and in particular I would like to highlight the

fact that it is a wintering habitat for bald eagles and migratory habitat for the mid-continent populations of waterfowl, cranes and other shore birds and the eastern portion of this proposed scenic corridor is nesting habitat for the federally endangered, interior least tern and the federally threatened piping plover.

The canoeing industry and canoeing recreation is the primary use in this area and since that use occurs primarily, if not exclusively, in the summer time problems that designation might pose of increased use of canoeing relative to bald eagles and other migratory species should be very minimal and I do not see a conflict between the bill and those biological resources.

The nesting habitat of the terms and plovers occurs to the east of the area. That is really suitable canoeing habitat and again I do not see any conflict between those federally-listed species and designation.

One of the things that I do see occurring is the fragmentation of these critical habitats that occurs with recreational property development and if our experience in other parts of the country hold true here, which we do not have any reason not to expect, the property outside the proposed corridor would in fact probably become the most sought-after recreational property and although that is not something we would want to encourage, it seems to suggest that protection of the biological features of the valley would be very much consistent with economic development of the recreation industry.

In summary, we feel that the biological diversity along the Niobrara River allows for a proper balance between development and preservation. The proposal to designate this section of the Niobrara as scenic strikes that balance and we wholeheartedly support this effort.

[The prepared statement of Mr. Steuter follows:]

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STATEMENT OF ALLEN A. STEUTER
DIRECTOR OF SCIENCE AND STEWARDSHIP
NIOBRARA VALLEY PRESERVE
THE NATURE CONSERVANCY, NEBRASKA

SUBMITTED TO THE PUBLIC LANDS, NATIONAL PARKS AND FORESTS
SUBCOMMITTEE, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
April 5, 1989

Mr. Chairman and members of the Subcommittee:

I am Al Steuter, Director of Science and Stewardship on the Niobrara Valley Preserve for the Nebraska Field Office of The Nature Conservancy. Thank you for allowing me to comment on S. 280 - a bill to include a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic River System. We enthusiastically support Senators Exon and Kerrey in this effort to provide increased recognition of the unique natural resources of the middle Niobrara Valley through a balanced effort of preservation and coordinated resource management.

The Nature Conservancy is a private, non-profit conservation organization dedicated to preserving the full array of biological diversity by finding, protecting, and maintaining the best examples of communities, ecosystems, and endangered species in our natural world. The Nebraska Field Office of The Nature Conservancy is actively contributing to these efforts in our state through projects in the Tallgrass Prairie, along the Platte River, in the Sandhills Prairie, and along the Niobrara River.

Recycled Paper

The Unique ecology of the middle Niobrara Valley in north-central Nebraska has been documented since the early part of this century. The attached article from a 1988 issue of an international journal "The Botanical Review" provides the most recent summary of the biological significance of the area addressed by S. 280.

In 1980 The Nature Conservancy purchased the 52,000 acre Niobrara Valley Preserve as part of our private effort to protect biological diversity. The preserve includes approximately 21 miles of river-front land within the proposed scenic corridor, mostly on the south side of the Niobrara River. Following purchase an intensive two year inventory of plant and animal species and natural communities was conducted on the preserve and adjacent lands. The results of this inventory document the occurrence of nearly 2/3 of the native plant species and 1/2 of the breeding bird species of Nebraska within a narrow corridor of the state along the middle Niobrara Valley. Approximately 160 species are at or near the edge of their range along this section of the river leading to potentially valuable genetic adaptations. Numerous species arrived in the valley during the last ice age and have persisted through the last 10,000 years of climate change due to a combination of geology and topography unique in the Great Plains. In addition, riverine habitats of the proposed scenic corridor provide wintering areas for bald eagles and migratory stops for the mid-continent populations of water fowl,

cranes and shore birds. The easternhalf of the corridor provides nesting habitat for the federally endangered interior least tern and the federally threatened piping plover.

The increased awareness of, and appreciation for, the Niobrara Valley which may result from Scenic Designation will be compatible with the preservation of biological diversity. The primary public use of the river is for canoeing. This is a summer activity which occurs along the western half of the proposed Scenic corridor. Thus, winter eagle use and fall and spring migratory use by water fowl, cranes and shore birds will not be negatively impacted. Nesting by interior least terns and piping plovers occurs on the sandbars in the eastern half of the proposed Scenic corridor. Here the river is generally too shallow to be attractive canoe water.

Additionally, our biological inventory indicates that 80% of the species occurrences important to natural diversity are located in the lands between the rivers edge and the top of the Niobrara canyon. These are the lands that would largely fall within the half mile corridor on either side of the river being proposed for Scenic Designation. The habitats along the canyon walls have remained relatively intact under the prevailing land-use characterized by low intensity ranching, forestry, and farming operations. However, without the type of protection envisioned by S. 280 these habitats will become increasingly fragmented by small recreational property ownership and the road access required to these properties.

If our experience in other parts of the country holds true, the lands outside the river corridor will become the attractive recreational property following Scenic Designation. Although this is not something to be necessarily encouraged, these areas are not as biologically sensitive and the critical habitats should be adequately buffered. The trade-offs between biological preservation and economic development have a higher probability of producing long-term value through the framework of federal easement support and local advisory input to corridor management proposed in S. 280.

We feel that preservation of biological diversity along the Niobrara allows for a proper balance between development and preservation. The proposal to designate this section of the Niobrara River as "Scenic" strikes that balance and we wholeheartedly support Senate Bill 280.

Thank you. This concludes my statement.

Senator BURNS. Thank you. I have a question up there. It has been a long time since I have been down along that river. I have crossed it many times. I used to travel Nebraska years ago. In fact, I ended up with a Nebraska wife.

Mr. STEUTER. So did I.

Senator BURNS. Has there been a lot of development along the Niobrara River?

Mr. STEUTER. Mr. Chairman, it has not occurred extensively at this point but all the signs are there for it to be just increasing. Most property that sells in the valley seems to be sold with a strong—I mean, this is in the published marketing efforts of realtors—a strong recreational component and although we have not seen it extensively to this time, all the signs are there that it will be coming, I think.

Senator BURNS. Now, the act provides for a continuation of current activities within that area. How will designation affect the property rights of current owners to pursue uses of their land that is not already underway?

Mr. STEUTER. Mr. Chairman——

Senator BURNS. You are setting back a half a mile in this act instead of the quarter mile and I have some questions about the owners of that land and how they propose to use that, or do they want to change land uses. Do they still have that right?

Mr. STEUTER. If possible, Mr. Chairman, I would like to defer to folks that are probably in a business more related to your question than the Nature Conservancy.

Senator BURNS. That will be fine.

Ms. KUHRE. Sir, I do have two beautiful springs on my place and I think that Coors Beer would be very happy to have it. There are possibilities of condominiums put along there, up above Rocky Ford. That was mentioned a few years ago. I know there are five trailer houses that have been put along the river about a half a mile stretch, so it is coming. It is coming very strongly.

I know that if we do not have it, there has in the past been old car bodies thrown into the river to destroy the beauty. When I am gone—and I hope it is many years that I can enjoy the river—but I feel that if we do not have this in future generations that we will lose the great beauty of the Niobrara. I have 18 grandchildren and I certainly hope that they get a chance to enjoy this.

Senator BURNS. Well, I can sympathize with that, but I am wondering about the impact on the owners of that land that is within this half mile area. Would you agree that it may infringe on their property rights and their ability to use that land?

Ms. KUHRE. I do not believe so. I think that in the bill it was written like, if we wanted to build a home within half a mile that when we would sell the rights, or whatever, that if we put it on there that we wanted to build a home there that we could still go ahead and build it. We could go ahead and operate just as we are today. We would still pay the taxes, just as we are right now.

Senator BURNS. Property ownership and property rights are one of the cornerstones of this country and that is what concerns me. Do you infringe on the rights of those people that own that land in that area, and I guess that was a concern of mine. Senator Exon?

Senator EXON. I think an old-time property owner in the area, George Lincoln, who is one of the people who came to see me originally, senator, about this and that was one of the things that we discussed at that time. I would like to have a property owner answer your question.

Mr. LINCOLN. Well, the way I understand the proposed legislation is that the farmer and the rancher can continue doing what is considered consistent with his present operation. The rancher can build a corral. He can build a barn, a house, whatever, as long as it is consistent with his present operation.

I consider a string of—a motel and et cetera down there, condominiums, not consistent with ranching operations. I cannot speak for areas less than five, six, seven, eight acres. I do not know what happens to those. I do not know how many there are.

That is mostly a ranching operation up there. Very little farming along the river. If it is, it is to support the livestock on the river. It is not a commercial operation and as far as the quarter of a mile back from the river, a half a mile back from the river, it was said earlier that that line starts at the banks. Mother Nature changes the banks of that river at will and as long as we leave it where the rancher can do whatever is consistent with his operation, I find no fault with it, sir.

Senator EXON. The answer to the question stated another way is that the Park Service would have no authority on individual property except the purchase of easements and the threat, the talk, the scare tactics that have been widespread in the area—widespread in the area that the Federal Government is going to seize land is strictly not true, for want of a better word.

Senator BURNS. Access to the upper portion of the river can be taken by the government without the owner's consent. Do you know of any instances where landowners have expressed a reluctance to allow access?

Mr. LINCOLN. To allow access?

Senator BURNS. A reluctance to allow access.

Mr. LINCOLN. I think most every rancher up and down that river do not want people coming down across their land to access the river. Now, there is access to the river where the highways and the road cross and it seems to me that there is—the Highway Department has access to the river there and if there is a condemnation to increase that access it is very small.

But it is not condemnation to make a large park out of it, to make hunting and fishing for whomever. That is what I am against when I say the right of eminent domain. To just go in there and say, thank you very much, for the better good of the people we are taking your land. I do not believe in that. I believe in property rights and that is why I said in earlier testimony that the farmer and the rancher in that area cannot protect himself from the right of eminent domain but he can if you pass the Scenic River bill. I think it is very important.

Senator BURNS. I have no further——

Mr. LINCOLN. A lot of the—excuse me.

Senator BURNS. I am sorry, sir.

Mr. LINCOLN. A lot of the opposition out there, Mr. Chairman, is not what the people know but what they do not know is what bothers them. It is what they do not know.

Senator BURNS. I have no further questions.

Senator EXON. I have no further questions. I thank the panel and I thank the Chairman.

Senator BURNS. Thank you, the panel. I appreciate that very much. If panel No. 3 will come forward, consisting of Senator Howard Lamb from the State of Nebraska. Robert Hilske and Larry Shepperd. We will start with Senator Lamb, please and welcome here today. We appreciate your making the trip.

STATEMENT OF HON. HOWARD LAMB, NEBRASKA STATE SENATOR

Senator LAMB. Thank you, Mr. Chairman and I appreciate the opportunity to testify before this august group and particularly happy to see some of my friends from Nebraska, Senator Exon.

I served with Senator Exon. My first two years as the legislature were his last two years as governor. I do not think there is any connection there, but we found ourselves on the same side of many issues and Senator Kerrey who was in here previously, it was good to see him. I served during his four years.

Also, Congressman Hoagland. I served in the legislature with him for eight years and it is good to see these people and I appreciate the opportunity to visit, although on this issue I am on the opposite side from these people today. We have always had a good relationship that we could agree and disagree, agreeably.

My name is Howard Lamb, State Senator from the 43rd Legislative District in Nebraska. I have been a State legislator for 13 years and I represent the four county area, which encompasses the whole proposed Scenic River designation. I appear in opposition today to S. 280.

Much of my testimony would be repetitious. I have many of the things that Congresswoman Smith mentioned and we certainly appreciate her testimony and her work on this issue. I would just say that—I think I will be more personal.

I grew up along this river. As a boy I hunted and fished along the river. Now I live in that same legislative district but about 100 miles from the river, but my family still owns land there which I manage and we own a mile of river front in Rock County, which is north of Bassett. I have a number of pictures here but I do not think there is time to go into that.

But I would just respond to some of the things that have been brought up today and the one was your question in regard to infringing on landowner rights and that certainly is one of my concerns, Senator Burns.

I note in here that they can build—reading the act on page 3, I believe it is—that you can build one cabin, but I have two sons. If each one of those sons wanted to build a cabin on there I am out of luck, as I read the bill and so I consider that an infringement on my rights as a landowner along the river.

Then in line 16 on page 3 of the bill says—well, in the middle of the bill there it says no more than 5 percent of the privately-owned

acreage within the corridor may be required without the consent of the landowner if activities are occurring or threatening to occur in the area to be acquired which pose a substantial threat to the integrity of the river. To me that "they"—what does that mean? What is integrity of the river?

I played along that river for 50 years and more and that river is in better shape than it was when I was a boy walking up and down those sandbars hunting and fishing, so I agree with all this testimony that you have heard today that the river is well cared for. I submit that the landowners are the best persons to have control of that river and I think it should stay that way.

[The prepared statement of Senator Lamb follows:]

TESTIMONY BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
APRIL 5, 1989

MY NAME IS HOWARD LAMB. I AM THE NEBRASKA STATE SENATOR REPRESENTING THE FOUR COUNTY AREA WHICH INCLUDES THE ENTIRE 76 MILE SEGMENT OF THE NIOBRARA FOR WHICH THE SCENIC RIVER DESIGNATION IS PROPOSED.

I APPEAR IN OPPOSITION TO THE SCENIC RIVER DESIGNATION. MY REASONS FOR OPPOSITION ARE AS FOLLOWS:

1) LOCAL LANDOWNERS ARE EFFECTIVELY PRESERVING THE RIVER IN ITS NATURAL STATE AND DO NOT WANT OR NEED FEDERAL INTERVENTION. THE AUGUST 1986 REPORT ENTITLED THE NIOBRARA RIVER: A PROPOSAL FOR SCENIC RIVER DESIGNATION STATES,

"LOCAL GOVERNMENT OFFICIALS ARE OPPOSED TO ANY KIND OF FEDERAL INVOLVEMENT OR CONTROL OF PRIVATE LANDS ALONG THE NIOBRARA RIVER. THEIR CLEAR PREFERENCE, IN TERMS OF FUTURE MANAGEMENT ALONG THE RIVER, IS FOR LOCAL CONTROL THROUGH THE COUNTIES AND NATURAL RESOURCES DISTRICTS. CONCERN WAS EXPRESSED ABOUT POTENTIAL IMPACT ON THE TAX BASE AND DEMAND ON THE ROAD SYSTEM DUE TO INCREASED RIVER USE. FUTURE USE OF THE RIVER AND ITS TRIBUTARIES FOR IRRIGATION DEVELOPMENT AND HYDROPOWER PRODUCTION WAS ALSO DISCUSSED. LANDOWNERS OPPOSED TO FEDERAL DESIGNATION VOICED SIMILAR CONCERNS. MOST OF THEM AGREED THAT THE RIVER IS IN BETTER CONDITION TODAY THAN IT WAS FIFTY YEARS AGO. THEY FELT THEY WERE ALREADY DOING AN ADEQUATE JOB OF PROTECTING THE RIVER AND RESENTED ANY IMPLICATION TO THE CONTRARY".

2) LOCAL SUBDIVIONS OF GOVERNMENT INCLUDING THE CHERRY COUNTY BOARD OF COMMISSIONERS, THE LOWER NIOBRARA NATURAL RESOURCES DISTRICT, THE MIDDLE NIOBRARA NATURAL RESOURCES DISTRICT, THE AINSWORTH IRRIGATION DISTRICT, THE KEYA PAHA COUNTY BOARD OF COMMISSIONERS, THE NIOBRARA RIVER BASIN DEVELOPMENT ASSOCIATION, THE BROWN COUNTY BOARD OF COMMISSIONERS, THE KEYA PAHA COUNTY FARM BUREAU, AND THE HOLT COUNTY BOARD OF SUPERVISORS, ARE OVERWHELMINGLY OPPOSED AS EVIDENCED BY THE ENCLOSED RESOLUTIONS FROM NATURAL RESOURCES DISTRICTS, COUNTY BOARDS AND CITIES IN THE AREA.

3) THE FUNDING PROPOSAL IN THE BILL CALLING FOR $1 MILLION IN DEVELOPMENT FUNDS HAS NO DEFINITION OR CRITERIA FOR ITS USE.

4) MUCH CONCERN HAS BEEN EXPRESSED THAT THE NOVELTY OF THIS AREA, IF DESIGNATED IN THE WILD AND SCENIC RIVER ACT, WILL ATTRACT MORE PEOPLE THAN THE CAPACITY OF THE AREA CAN HANDLE AND CAUSE DETRIMENTAL EFFECTS TO THE RIVER AND ITS SURROUNDINGS.

5) A NUMBER OF POLLS HAVE BEEN TAKEN REINFORCING MY OPPOSITION TO THE DESIGNATION. THE 1986 REPORT PREPARED BY THE NATURAL RESOURCES COMMISSION CONCLUDED 52% OPPOSED THE THE PROPOSAL. ANOTHER POLL CONDUCTED BY THE OMAHA WORLD HERALD INDICATED THAT 56% OF THE PEOPLE IN THE FOUR AFFECTED COUNTIES OPPOSED THE DESIGNATION. THE NEGATIVE RESPONSE WAS EVEN STRONGER AMONG AREA LANDOWNERS WITH 68 PERCENT OPPOSING THE MEASURE. KBRB, A LOCAL RADIO STATION IN AINSWORTH CONDUCTED AN OPINION POLL ON MARCH 14, 1989. LISTENERS WERE ASKED TO CALL AND VOICE THEIR SUPPORT OF OR OPPOSITION TO THE PROPOSED SCENIC RIVER DESIGNATION. 94% OF THOSE CALLING OPPOSED THE DESIGNATION.

BOTH TIMES SENATOR EXON HAS INTRODUCED THIS BILL TO RESERVE THAT PORTION OF THE RIVER FOR RECREATIONAL PURPOSES I HAVE MADE QUITE CLEAR THE OPPOSITION VOICED BY LOCAL RESIDENTS, THE LANDOWNERS, THE NRD'S, AND THE LOCAL POLITICAL SUBDIVISIONS. IN ADDITION GOVERNOR ORR, IN A LETTER DATED MARCH 14, 1989, EXPRESSED DEFINITE CONCERNS AND OUTLINED AMBIGUOUS PROVISIONS IN THE BILL. SHE ALSO URGED THAT ADDITIONAL PUBLIC HEARINGS BE HELD TO RESPOND TO THIS WIDESPREAD OPPOSITION.

UNTIL AT LEAST THE CONCERNS OF THE SUPPORTERS OF THIS ACT CAN BE ADDRESSED THE OPPONENTS CANNOT EASILY BE PURSUADED THIS WILL IN ANY WAY ENHANCE THE STANDARD OF LIVING OR RESOURCES IN NEBRASKA. SOME OF THE AREAS I REFER TO, FROM THE NRC REPORT, THAT EVEN THE SUPPORTERS STRESS NEED TO BE STUDIED ARE:

1) POTENTIALLY DESTRUCTIVE DEVELOPMENT;
2) POLLUTION;
3) MAINTAINING INSTREAM FLOWS;
4) LOCAL REPRESENTATION;
5) BIOLOGICAL AND ECOLOGICAL DIVERSITY; AND
6) PRESERVATION OF THE CULTURAL AND HISTORICAL SIGNIFICANCE.

MANAGEMENT HAS AND SHOULD CONTINUE TO BE FOCUSED AT THE LOCAL LEVEL. NEBRASKA IS NOT CURRENTLY HAVING A PROBLEM AND DOES FORSEE A PROBLEM WITH THE NIOBRARA RIVER, THE AGRICULTURAL AND LIVESTOCK OPERATIONS IN THE SANDHILLS, SPORTING ACCESS, PRIVATE ENTERPRISE OR TIMBER MANAGEMENT IN OR AROUND THE AREA.

PLEASE CONSIDER CAREFULLY THE CONCERNS I HAVE BROUGHT YOU TODAY. THEY ARE FROM THE PEOPLE OF NEBRASKA MOST DIRECTLY AFFECTED BY THE PROPOSED BILL.

98-094 O - 89 - 5

Senator BURNS. Thank you, senator. We will get on with some more testimony. Thank you very much. We appreciate you coming here today and I will have some questions for you just a little bit later. Robert Hilske, is it?

Mr. HILSKE. Hilske.

Senator BURNS. You have some comments for us?

STATEMENT OF ROBERT F. HILSKE, MANAGER, MIDDLE NIOBRARA NATURAL RESOURCES DISTRICT, VALENTINE, NE

Mr. HILSKE. Yes. Thank you, Senator Burns and it is an honor to be in the presence of Senator and former Governor Exon.

My name is Robert Hilske and I am the manager of the Middle Niobrara Natural Resources District in Valentine, Nebraska. Our Agency is a tax-levying political subdivision of the State, which oversees soil and water conservation activities in a 2.7 million acre area of northern Nebraska. The Niobrara runs through our district and 45 miles of the 76 miles being proposed for this Wild and Scenic designation lies within our boundaries.

Our board of directors, which is made up of seven elected officials from the NRD area, has long opposed the designation. This position was reaffirmed in February when they passed a resolution opposing the present S.280 until such a time that an economic land and water use plan for the river basin is funded and developed. This plan is extremely important as it would better determine the economic impact the proposed designation would have on the area.

It is our understanding the normal procedure for designating a river as being Wild and Scenic usually includes a suitability study of that stretch being offered for protection. This is usually completed prior to the introduction of legislation designating that stretch as Wild and Scenic.

To my knowledge the Department of Interior, and it has been somewhat borne out by today's testimony—that this study has never been done. Thus, in keeping with normal procedure we would urge that this work be completed prior to considering this legislation.

Any study should not only address the environmental importance of the river, it should take into consideration the value of all water and land resources. It is imperative that we know the value of the resources we stand to lose before this designation is made. The course we are presently taking would be akin to doing an environmental impact assessment on a project prior to it being built. Needless to say, this would not be a wise way to assure proper use of a resource.

I feel that the original reason for this designation being proposed and pushed through the system as rapidly as possible, without regard to the normal procedure, was to stop the development of the Nordem Dam, an irrigation project that would have resulted in the flooding of a portion of the stretch of river.

Today, I am sure most proponents and opponents of that project would agree there is—and of course, the House legislation bears that out—that there is little chance that this will ever be built. With this in mind, we should no longer use this project as an argument to support or oppose this designation, but rather take the

time to do the necessary background work to assure that we truly do what is best for this important resource and the people of Nebraska.

As a local Agency, we are concerned that our organization, along with residents and other area groups, were bypassed when plans were made to seek protection of the river. To develop a preservation plan for the river we must work from the bottom up as opposed to the top down as we are doing now.

Much of the local opposition to this proposal is due to the frustration of being told how things are going to be and little consideration given to their opinion. It is important that we get riparian and area landowners involved in the decision-making process. If they feel that they are a part of the efforts to protect the river they will be far more willing to accept the idea of preservation than they are now.

The present legislation has little support in the local area. By reevaluating this proposal and allowing the local agencies and residents to work with the Federal Government we can develop an appropriate plan that would accurately outline how this resource should be utilized in the future. I feel this approach will truly give us a plan for the river we can all live with and support.

Senator BURNS. Thank you, Mr. Hilske, for your testimony.

We will move right along now, and I expect we will ask some questions. I would like to introduce Mr. Larry Shepperd, who is chairman of the board of Keya Paha County. I thought that was Cherry County.

STATEMENT OF LARRY SHEPPERD, CHAIRMAN, KEYA PAHA COUNTY BOARD

Mr. SHEPPERD. Thank you, sir.

It is Keya Paha, sir, but you did right well.

Senator, and all members of the committee, it is a pleasure for me to come back to Washington, D.C. and talk to you about an issue that I will have to admit has a lot of controversy.

I do serve as chairman of the County Board of Commissioners in Keya Paha County. And this is my 17th year. And I can relate to trying to get a consensus among people; sometimes it is a little difficult.

And I sincerely believe, as people of the county, that Scenic River Designation is not in our best interest. I think we have been, all the entities of local government up there are on record, with the exception of one county, that they are in opposition of the Scenic River Designation.

We hear a lot about polls and surveys. On November 4 through November 22 of 1985, Keya Paha County did the best we could with a survey, it was by volunteers, that was supposed to call the people that were classified as taxpayers in that county.

The question was asked: Do you support Scenic River Designation for the Niobrara River? Seven percent of those people said yes; 61 percent said no; and 32 percent had no opinion.

We have a study in process in the basin at the present time, as monies become available. The Natural Resource Districts I think are working on some public use areas in the area. I am aware of a

couple of instances and sites. They are addressing some of the basic needs.

A lot of people are telling me that all this is basically an effort to promote the Audubon Society and the Nature Conservancy.

And I have no quarrel against those organizations. But this it what my taxpayers are telling me.

Our county is very concerned because we are the only county that has access or access trails to the area. And I think we talk a lot about future development, and condominiums and this type of thing up and down the river. Well, I would simply say that any development is going to be determined by the flood plain and wherever you might be.

My opinion, and my true opinion on the Niobrara Basin, and I think, Mr. Exon, as he talked, kind of touched upon it, there is a 200-foot drop up to—from the top of the canyon lands and the flatland to the bottom of this river. It is very, very highly erodable.

I think if we are really going to protect and preserve that river we are going to have to be looking at stream bank stabilization. We are going to have to preserve some of the tributaries, have water-retention structures at the headwaters and keep the silt and the sand out of that river.

I can show you many places in the river where it has widened out, and it is all sandbars below the bottom end of this designation.

And I think if we are really looking at it, one of the most important resources we have in Nebraska is our groundwater. We can argue and fight over surface water and let it disappear and run away and get no good out of it, but as we drain our groundwater out of that area, I can assure you the future generations—we should be held accountable for that.

This is my big concern as a county commissioner.

We feel strongly that we are going to have to put some erosion structures, in conjunction with our county road system.

And we believe that any decision on this important issue should not be made in Washington, D.C., but be made with the State of Nebraska in our local Natural Resource Districts. They are given that duty as they are elected.

My duty is to try and represent those people in the best of my ability. And I thank you for your consideration, and I trust your wisdom will ensure an equal benefit to all of Nebraska.

And I thank you.

[The prepared statement of Mr. Shepperd follows:]

TESTIMONY OF LARRY SHEPPERD

CHAIRMAN, KEYA PAHA COUNTY BOARD

MEMBER, NIOBRARA RIVER BASIN DEVELOPMENT ASSOCIATION

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS

APRIL 5, 1989

S 280, NIOBRARA RIVER SCENIC RIVER DESIGNATION ACT

Mr. Chairman, members of the Subcommittee, it is my pleasure to appear before you.

I am Larry Shepperd, Chairman of the County Board of Keya Paha County, Nebraska; I also represent the Niobrara River Basin, a group of local concerned citizens.

I sincerely believe that scenic river designation is not in the best interest of north-central Nebraska.

A list of questions and concerns are attached to this testimony.

Mr. Exon is out of touch with the people that he represents.

The bill is merely an effort of the Audubon Society and the Nature Conservancy to promote their cause.

A telephone poll taken by Keya Paha County from November 4 through 22, 1985, asked, "Do you support scenic river designation?"

Seven percent said yes, 61 percent said no, and 32 percent had no opinion.

The Basin is being studied at present to develop a comprehensive plan as local money becomes available.

The counties have land-use planning being addressed at present.

The Natural Resources Districts are working on public use areas, parking, rest rooms, and picnic areas.

Keya Paha County is the only county with access roads and trails along the river.

Future development would be determined by the flood plain in the basin, as the drop in elevation approaches the 180-foot level to much of the adjacent range and table land.

All the entities of local government, with the exception of one county commission, are in opposition to the proposal. This should have merit.

Local people should be able to decide their own future.

The local people would strongly suggest a comprehensive study to address the entire Niobrara basin.

The major concern for the river is streambank stabilization and erosion control.

As a county commissioner, I am well aware of this, as well as the degrading of all tributaries and the draining away of our evermore important groundwater level.

We feel water retention structures are in order for many of the headwaters.

We strongly believe the future of our most important resource should not be addressed here in Washington, DC, but instead by the government of the state of Nebraska, as well as all local governmental subdivisions.

I thank you for your consideration, and I trust in your wisdom to insure an equal benefit to all Nebraskans.

A public meeting was held at the Keya Paha County Courthouse in Springview, Nebraska on February 22, 1989 to discuss concerns regarding the proposed scenic river designation of the Niobrara River. A roster of those present is attached and hereby made a part of this record.

Below is a list of the major points and questions expressed by those present:

(1) What will be the impact on the landowners in the corridor?

(2) How will this designation affect land values?

(3) How will the scenic river designation affect the head waters and the tributaries on the Niobrara River?

(4) What are the rights and obligations of the landowners in regard to future development and what restrictions will be placed on river usage?

(5) The people fear there will be a loss of local control.

(6) Transmission lines currently cross this area.

(7) Concerns were expressed regarding the expenses that will be incurred by the counties for the maintenance and building of roads and bridges. Of the 76 miles of the proposed scenic river, 50 miles are in Keya Paha County. At the present time, Keya Paha County is maintaining 31.5 miles. Keya Paha County would be responsible for 2/3rds of the roads in the corridor area. The bill says that the federal government "MAY" provide funding for roads but it does not say "SHALL". This would be a burden on the counties it they did not receive federal funding.

(8) What will the impact be on the wildlife if there are more roads and tourists?

(9) We feel that the Niobrara River is close to its saturation point with canoers now. We should do some things to improve the river for those currently using it such as access areas, better roads, etc. If we are going to bring more tourists into this area we will need to diversify.

(10) The survey conducted by Senator Exon did not include ALL landowners along the Niobrara River. This survey stated that the majority of the landowners along the river favored the proposed designation. When in reality 70% of the landowners in Cherry County were opposed and 60% of the landowners to the Norden bridge were opposed. The majority of the area landowners were in favor. What happened to "one-man, one-vote"?

(11) The need for another survey was discussed. We feel that only the minority have been heard and that the majority have not been heard from yet.

(12) The "expert" sited by Senator Exon is questioned. The "expert" based his figures on a Colorado river. Colorado has a much more diversified tourist industry than Nebraska. Also what and where will the 60 jobs be that he sited?

(13) The bill introduced by Senator Exon seems to conflict with the Scenic River Act. Is Senator Exon's bill just an inventory to add the Niobrara River to the Scenic River Act? If so, the restrictions are in the Scenic River Act not in the bill introduced by Senator Exon. The bill needs to be reviewed by an attorney.

(14) We question just how wild and scenic the Niobrara River is with farmers farming right up to the rivers edge. Most scenic rivers are bordered by lands that are public array.

(15) Where does most of the water in other scenic rivers come from? Is it runoff from ag land or is it snow melt?

(16) The beauty of the river is 3 miles back from the river looking toward the river not from the river looking out a ½ mile corridor. The beauty of the river does not stop at the corridor. This brings concerns as to the encroachment of individual rights in the future. Will this eventually lead to taking more than the original ½ mile easements?

(17) Questioned the "willing seller, willing buyer" concept.

(18) Senator Exon has said that nothing is being done locally to preserve the Niobrara River. The Niobrara Basin Study is being developed and compiled by the natural resource district as facts and money become available. The river is only a part of the study.

(19) How do you address erosion control structures and resource development in the future?

(20) Enviromental impact studies are consumer costs.

(21) We question the wisdom of tying up our resources under todays conditions when we do not know what the needs of future generations will be. Sited Two Forks in Colorado as an example.

(22) The scenic river designation is a political move to block the Norden Dam.

(23) Ted Eichenberger spoke with Governor Kay Orr on February 17, 1989. She stated that the scenic river designation was more or less a political move on her part. She said she was not completely opposed to or in favor of the designation. But would try to have local hearings before anything is done.

(24) Contrary to first thought, only a few landowners will receive monatary consideration for the ½ mile easements. Most people will receive nothing.

(25) Concerns over the committee makeup were expressed. Only 2 of the 11 committee members will be from area governmental subdivisions. This doesn't seem like the right balance in light of the fact that the political subdivisions are going to be responsible for fire protection, police protection, maintenance, etc.

(26) Lowering into the aquifer.

(27) Liability insurance requirements for the landowners is a serious question.

Name	Represent	In Favor or Opposed
Gale Larrington	Lower Niobrara NRD - and self -	opposed
Howard E. Titus	Chairman Village board Springview	opposed
Virgil E Billings	Landowner drains in to River	opposed
D. L. Evans	Clerk, Village of Springview	Opposed
Donald C Zwiebl	Chairman Environmental Improvement NBCIC	opposed
Donald Eling	Self	Opposed
Glen A Hallock	Springview Village Board Member	Opposed
Ronald Ludemann	County Employee -	Opposed
Wilford Leach	Brown Co - Commissioner	opposed
Grey Bammerlin	Keya Paha Co.	opposed
Howard S Carr	Niobrara Basin Grey Dist (director)	opposed
C W Ripley	Niobrara Basin Rec Dist Director	opposed
Meda Seier	Self	opposed
Ralph Seier	Self	opposed
Ted A Eckenberger	County Commissioner	opposed
Merle Dehn	Rock Co Commissioner	neutral
Mordor Boyd	[illegible]	opposed
Irene Boyd	Citizen of Rock Keya Paha Co	opposed
Eric Lewis	Concerned Citizen of Keya Paha Co	opposed
Vance Baker	Concerned Citizen	opposed
James McKenney	Concerned landowner + businessman	opposed
Harlan Welch	Ainsworth Irr. Dist. Mgr. NE. Landowner & Sportsman Assoc.	opposed
Dave Jones	Nat Res Comm Niobrara River Basin Representative	Opposed
Jim Coots	Lower Niobrara N.R.D.	opposed
William Gudgel	Brown Co Comm	opposed
Glen Schrantz	Keya Paha Co Comm.	opposed
Larry Shepperd	Keya Paha Co. Comm	opposed
Jimmy Jackman	Brown Co Commissioner	opposed

NAME	Represent	Favor or oppose
Bill Ward	Cherry County Comm	oppose
Hugh Potter	Valentine, NE Land Owner Sonic Area	oppose
Bob Gass	408 N. Main, Valentine, MN NRD	oppose
Bob Hilske	Middle Niobrara NRD	Oppose
Connie L. Weston	K.P.Co. Clerk	Oppose

PROPOSED SCENIC RIVER DESIGNATION SURVEY

Below are the results of a survey conducted by the Keya Paha County Commissioners from November 4-22, 1985 of Keya Paha County residents concerning their views on the proposed Scenic River Designation that has been introduced by Senator Exon. A total of 373 surveys were completed.

Question 1

Are you familiar with this proposed legislation and how it will affect you?

63% of those surveyed said "Yes" they were familiar with this legislation and 37% said "No" they were not familiar with this legislation.

Question 2

Do you support this proposed legislation?

7% said "Yes" they did support this legislation, 61% said "No" they did not support this legislation and 32% were undecided.

Question 3

Would you like to learn more about this proposed legislation and the implications it will have on you?

66% of those surveyed said "Yes" they would like to learn more and 34% said "No" they did not want to learn more.

Senator BURNS. Thank you. Thank you.

We will start the questioning. Senator Exon, do you have any questions?

Senator EXON. Yes. Thank you very much, Mr. Chairman.

Larry, thank you for coming.

Senator, thank you for coming. I know that you are in session out there, and I know you want to get back. And, Robert, thank you for coming. You have laid out the concern that you have in this quite well. And we have talked over the years on this proposition.

Let me ask this question. With regard to local control, as you know, the bill spells out a committee, supposedly representative of the local people, to work in conjunction with the Forest Service, so that we want local input on this whole proposition.

So, you know, that is an area where we do not agree, obviously.

Is it not true, though, that 2 years ago, when I first introduced this, I agreed to step back and not push it, to give the Nebraska legislature a chance in the session before this one to do something about local control. And I believe that something was attempted in that area, was it not, Howard, but nothing was accomplished? Is that right?

Senator LAMB. That is correct. I had a bill in the legislature. Unfortunately, the Game Commission opposed it in committee and it was killed.

I think that sentiment for local control is certainly still there, and I think that is the way to go.

You referred to the committee in your bill, let me state—and I think Governor Orr, I think pointed this out to you in her letter—number one, the committee is appointed by the Fish and Wildlife Service, which is not the proper group to do the appointing because you are not going to have an objective committee, you are going to pick the people you want.

And secondly, they do not have any authority; they do not have any authority anyway.

Senator EXON. Maybe that is something that we could look at. I have been pleading for suggested changes in that. Did you ever write or make suggestions to me along those lines?

Senator LAMB. We have had a number of conversations, and, you know, I think the last time you invited me to lunch, and I think we had a very interesting——

Senator EXON. And I paid for it I believe.

Senator LAMB. And I appreciate that very much. And if you would like to invite me again, I will certainly accept your hospitality. [Laughter.]

Senator EXON. As a situation today, if I wanted to build a hotel or motel with canoes on the Niobrara, there would be nothing to stop me if I could find some landowner that would sell me the land?

Is that right?

Senator LAMB. That is correct. But, also under the bill, I see $1 million in there for development. I am not sure, but this bill will result in more deterioration of the area than it will if it is left as it is.

I personally would like to just keep it like it is. I think you know that. But I see that this has a tendency to turn it into a Yellowstone Park. I do not want to see that. I want to preserve the river.

I do not think this bill is going to do it when you talk about $1 million for development, whatever quote, unquote, that means.

Senator EXON. Well, what that means, it is not building the facilities that you think of, what that really means is to provide areas to get to and from the river in certain locations, to make the very minimum amount of improvements; that would be up to the Forest Service.

But, by and large, my experience with the Forest Service has been that they do a pretty sound job from the standpoint of preserving the environment with what they do. Certainly I do not think it would be fair to say that $1 million for development would be the same development that I am talking about. Two totally different things.

In any event, I have no further questions and I thank you for being here.

Senator BURNS. Okay. I have a couple of questions. I do not think we are going to turn it into a Yellowstone Park. We are not going to let it burn, I hope. [Laughter.]

I direct this question to the commissioner. If someone wants to donate land along the river for this park, and when you do that you take it out for the tax rolls, how far back from that river do you think that development should go? Have there been any estimates?

And I realize that the counties are in a tough strait to raise monies now.

Mr. SHEPPERD. I can tell you in all sincerity that we are at a statutory limit in our rural county. And we look at any development that would enhance our tax base to buy a little more time to stay as a county. We are probably going to be looking at consolidation up there.

And I think I can see not any benefit as far as—and again, talking about the flood plain and desirable locations in that river basin.

The real beauty of that Niobrara River Basin is not one-half mile or a quarter or a mile or what, it is up on the high country looking down.

It is a beautiful area. I am the fourth generation of people from my family that have lived there. And I guess one thing that I get confused about, the people that are buying some of the land, and all of a sudden they are hollering protection, they seem to know more about the characteristics of the area than people who are second and third and fourth generation people there.

And that is why the consensus is getting harder and harder to make.

Obviously, if the Federal Government passes a designation, I will have nothing to say about, you know, how far back something could be developed to tax. It would vary as you go down the river. The valley is wider in certain places.

Does that answer your question, sir?

Senator BURNS. It sort of does. And in your estimation, does this designation enhance your ability to run your county? Does it take

taxes away from you? Or do you think that increased tourism, or something else as a result of this designation, would be of a greater benefit?

What I am getting at here is that every time we start designating things in the Federal Government, there is one thing that does not make it on the agenda. That is the economic and the social impact on the communities and individuals and the areas that are most affected.

Mr. SHEPPERD. Well, I think the people have access to the river now. You know, probably I would say on a Sunday afternoon—and I used to be a canoeist—and age has kind of taken care of that, so I am going to different avenues for my spare time—but what you see there is a depressed area where you are not really the tax base and the enhancement of business because there are not that many businesses there.

Eastern Nebraska, basically, they might stay overnight in a motel. I think most of them will camp out. And usually the beer and those type of things, they haul in with them, because it is a lot cheaper than they can buy it there.

So, it is pretty hard to put an estimate on what this would actually bring to the area and who it would bring in. So these are some of the confusing things I have got. And, again, it is a judgment, whoever, wherever you are seated, wherever you are looking, would affect your judgment there.

Senator BURNS. I have no further questions for this panel.

Senator EXON.

Senator EXON. This bill would have no effect whatsoever on taxes because all the lines that are there now, even any line that would be granted under easement, the taxes are paid, so it would not have adverse taxes.

There has been some concern in the local area that it might cost more to keep the roads up. I think we have addressed that, and that would be part of that $1 million I referred to earlier.

To answer your question also, Senator, there have been several studies up there that indicate that with the increased tourism that this would bring to this area, it would generate $4 million of additional sales, and $1.2 million in net income per year to the surrounding counties.

I think in the final analysis there would be more money coming into the community. But I have to say, I agree with Larry, no one knows for sure what all these things are going to cost, but I would think it would do nothing but help the area.

Thank you very much. I appreciate your coming.

Senator BURNS. Thank you very much. We appreciate your making the trip today.

We move to panel No. 4, which consists of Ronald Klataske, West Central Regional vice president of the National Audubon Society; and Kevin Coyle, American Rivers, Incorporated.

Are those gentlemen with us today?

STATEMENT OF RON KLATASKE, VICE PRESIDENT, WEST CENTRAL REGION, NATIONAL AUDUBON SOCIETY

Mr. KLATASKE. Thank you, Mr. Chairman.

I am Ron Klataske.

I became familiar with the Niobrara River in 1965 while working at the Valentine National Wildlife Refuge, and was aware that it was being considered during that decade as one of the original candidates for inclusion in the Wild and Scenic Rivers Act of 1968.

Because of the good stewardship of almost all of the ranch and farmland owners with the river valley, this remarkable resource remains as worthy today as 25 years ago for national recognition and conservation.

As described in the article, Niobrara Valley, unique and enduring, which is provided from NEBRASKAland Magazine, ranch and farm families along the river began the current campaign to advance national scenic river protection for the most scenic and ecologically significant section of the Niobrara River Valley in March of 1980.

Franklin Egelhoff, who is here with us today, and the late Loring Kuhre, were the first to recognize the merits of, and campaigned for national designation of the river that flowed alongside their family ranches and farms.

In May of 1980, land owners, representing a substantial majority of the property along 47 miles of the river in that vicinity, signed joint letters to all members of the Nebraska Congressional delegation, asking for appropriate legislation that would protect the public interest values of this spectacular scenic area, while safeguarding the established and complementary interests of landowners.

In October of 1980 all the resident ranch and farm landowners along a 15-mile stretch of river north of Bassett signed a similar request.

In the spring of 1985 they were joined by a substantial number of landowners with riverside property along the 14-mile reach which separated the two previous requests.

The proposal that they drafted and endorsed was designed to establish a partnership between landowners and the Department of Interior in the conservation of this river and the associated landscape.

It is a landscape that combines outstanding natural features of topography and diverse plant communities, with the picturesque presence of a modest number or ranch and farm homes and facilities, which contribute a pastoral dimension to the scenery.

The natural and cultural features of this valley are in general harmony, and the presence of both serves to distinguish the best of the characteristic qualities of this unique part of Nebraska.

We applaud the nature of this legislation. Senate Bill 280 recognizes and would protect and enhance the nationally significant resources of public interest associated with this unique river valley.

Likewise, it safeguards the vital interests of ranch and farmland owners along the river, and recognizes that good stewardship can be achieved through a carefully articulated partnership between private individuals and their government.

With all of the above in mind and the testimony of other supporters that you have heard today, we urge this committee and the U.S. Senate to move forward expeditiously with enactment of this legislation.

With its combination of natural and pastoral features, the Niobrara River Valley is conceivably the most scenic river valley in the Great Plains. It has awaited its deserved recognition for over two decades, and this is the time to acknowledge a national treasure and extend our formal thanks to the landowners who have given their Congress and all of us their trust.

And I want to just point out one factual error that was mentioned a little earlier in one of the other statements, suggesting that there were 30 landowners in town who wanted to testify who are opposed to this but were unable to. Those were not really landowners but area residents of Nebraska who, for other reasons oppose this, not because they are landowners.

All of the landowners along the Niobrara who are in town are in fact testifying, except for Franklin Egelhoff, who is here with us today.

The other thing I want to mention is that the origin and design does not have to be by government staff. And I take issue with the National Park Service representative who thinks that Federal Government staff or bureaucrats, as they are sometimes referred to, have to do a study first.

I think one of the most commendable things of this whole proposal is the fact that it was developed by people like Franklin Egelhoff, Loring Kuhre, Joe Leonard, Tony Arrowsmith, George Lincoln, Kenneth Emory, and many other landowners who have brought this forward and made a suggestion.

[The prepared statement of Mr. Klataske follows:]

Testimony of Ron Klataske
Regional Vice President West Central Region
National Audubon Society
200 Southwind Place
Manhattan, Kansas

on

Senate Bill 280

April 5, 1989

Public Lands, National Parks and Forests Subcommittee,
Senate Energy and Natural Resources Committee

My name is Ron Klataske. I work as the West Central Regional Vice President of the National Audubon Society, serving an area of eight Great Plains, prairie and Ozark States. I have represented the National Audubon Society and worked closely with our Nebraska members on river conservation issues during all of the last 19 years.

I became familiar with the Niobrara River Valley in 1965 while working at the Valentine National Wildlife Refuge, and was aware that it was being considered during that decade as one of the original candidates for inclusion in the Wild and Scenic Rivers Act of 1968.

Because of the good stewardship of almost all of the ranch and farm landowners within the river valley, this remarkable resource remains as worthy today, as 25 years ago, for national recognition and conservation.

As described in the article "NIOBRARA VALLEY Unique and Enduring" (pp. 20-29, 59-64) in the August/September 1987 edition of NEBRASKALAND magazine, ranch and farm families along the river began the current campaign to advance national scenic river protection for the most scenic and ecologically significant section of the Niobrara River Valley in March of 1980. Franklin Egelhoff, who is here with us today, and the late Loring Kuhre, were the first to recognize the merits of and campaign for national designation of the river that flowed along side their family ranches and farms. In May of 1980

landowners representing a substantial majority of the property along 47 miles of the river in that vicinity signed joint letters to all members of the Nebraska Congressional Delegation asking for appropriate legislation that would protect the public interest values of this spectacularly scenic river, while safeguarding the established and complementary interests of landowners.

In October of 1980 all the resident ranch and farm landowners along a 15 mile stretch of river north of Bassett signed a similar request. In the spring of 1985 they were joined by a substantial number of landowners with riverside property along the 14 mile reach which separated the two previous requests.

The proposal that they drafted and endorsed (with some technical assistance from our office and others) was designed to establish a partnership between landowners and the Department of the Interior in the conservation of this river and the associated landscape. It is a landscape that combines outstanding natural features of topography and diverse native plant communities with the picturesque presence of a modest number of ranch and farm homes and facilities which contribute a pastoral dimension to the scenery.

The natural and cultural features of this valley are in general harmony, and the presence of both serves to distinguish the best of the characteristic qualities of this unique part of Nebraska.

We commend the landowners and Senators Exon and Kerry for their individual and collective foresight and leadership in their effort to preserve this magnificent river valley.

We applaud the nature of this legislation. Senate Bill 280 recognizes and would protect and enhance the nationally significant resources of public interest associated with this unique river valley. Likewise, it safeguards the vital interests of ranch and farm landowners along the river, and recognizes that good stewardship can be achieved through a carefully articulated partnership between private individuals and their government.

With this in mind, and recognizing that most landowners want to preserve the existing highly scenic and natural qualities of the river valley, we are committed to the course outlined in S. 280 which demonstrates that conservation objectives can be achieved in a fashion that is complementary to the interests of landowners.

The detailed provisions of Senate Bill 280 reflect a commendable sensitivity to the farm and ranch landowners who are a positive part of that river valley and make national designation a promising possibility through their collective proposal.

We recognize that it is important to include these and other details in the Bill so that everyone can understand the proposal and the type of considerations that we trust will be incorporated in to the Act, the committee report and/or management plan for this stretch of the Niobrara.

In reviewing amendments to the 1968 Wild and Scenic Rivers Act which have been enacted, it is apparent that most have not restricted the Secretary of the Interior's condemnation authority as much as Senate Bill 280. One exception was the language authorizing the Missouri River between Gavins Point Dam and Ponca State Park as a recreation river.

We acknowledge and support the concept of limiting the Secretary's condemnation authority in this instance to those situations where "activities are occurring or threatening to occur in the area to be acquired which pose a substantial threat to the integrity of the river and the values for which it was designated," as specified by S. 280. The Society believes that this language, and some of the other details, could be incorporated into the committee report with equal clarity of purpose, rather than retained as part of the Act. The reason for making this recommendation is to avoid setting a precedent that would erode the spirit of other guidelines contained in the Wild and Scenic Rivers Act which will apply to other rivers added to the system in the future.

By the same token, we endorse the nature of the provisions in S. 280 that are designed to protect existing land use practices, such as established ranching, farming and recreational operations on the specific land involved within the proposed corridor along the river. Most of these land use practices are consistent with national designation as tailored by this BIll for the Niobrara. Detailing some of these details may be best accomplished in the committee report, rather than in the amendment to the Act. In any regard, we will need to guard against inadvertent loopholes that could be abused by charlatans. But it is of equal, or even greater importance, that we protect the established interests of landowners and their families that will inherit their legacies of land along the Niobrara.

The Bill would be improved if Sec. 2(D) were deleted. If allowance for a diversion dam is provided, it may be necessary to forgo inclusion of the portion of river that would be immediately affected. Prospects of the economic feasibility for the Springview irrigation project may be so remote, however, that it may be better to simply drop this provision. This should be carefully reviewed. It also needs to be acknowledged that this provision was not a major concern of river landowners. They simply wanted to be considerate of the folks who wanted the potential benefits of an irrigation project, but various diversion advocates have not returned the favor by being supportive of river protection.

With all of the above in mind, and the testimony of other supporters that you have heard today, we urge this committee and the U.S. Senate to move forward expeditiously with enactment of this legislation.

With its combination of natural and pastoral features, the Niobrara River Valley is conceivably the most scenic river valley in the Great Plains. It has awaited its deserved designation for over two decades, and this is the time to acknowledge a national treasure and extend our formal thanks to the landowners who have given their Congress, and all of us, their trust.

Senator BURNS. Thank you very much.

We will move to the testimony of Mr. Coyle, who is vice president of American Rivers, Incorporated.

Welcome and thank you for coming.

STATEMENT OF KEVIN J. COYLE, VICE PRESIDENT, AMERICAN RIVERS, INC.

Mr. COYLE. Thank you, Mr. Chairman.

I am glad to be here. And welcome to the baptism of fire that you are experiencing here today.

My name is Kevin Coyle. I am vice president and conservation director of American Rivers. I am also offering testimony today on behalf of the American Canoe Association, the American Society of Landscape Architects, the Environmental Policy Institute, Friends of the Earth, National Parks and Conservation Association, Sierra Club, and the Wilderness Society.

Mr. Chairman, we wish to praise Senators Exon and Kerry and Congressman Hoagland for their leadership in developing this proposal, and to join with them in recognizing the Niobrara's outstanding natural values.

We must however raise three serious objections to the legislation as now written.

The first, and by far the most serious problem is that the bill contains language allowing for the construction of a dam and diversion on the river.

In our view, this is a critically dangerous precedent. Indeed, the very basis of the Wild and Scenic Rivers Act is to prevent such construction and to counter our national policies of river development with a policy that keeps our most outstanding rivers free flowing.

Were this bill to pass as written, all future rivers eligible for inclusion in the Wild and Scenic System would be threatened.

We understand the proposed dam project for the Springview District is in lieu of the much larger Nordem Dam proposal, but we also understand that it may be the least economically feasible element of irrigation system proposed for the river.

We would ask that the subcommittee closely evaluate the feasibility and worthiness of this project, and might go so far as to request the Bureau of Reclamation to explore that and offer an opinion on that subject.

Secondly, the bill contains a number of provisions designed to assure riverside landowners that there will not be a wholesale takeover of their land by the Federal Government. And we support that distinction between a public land river and a private land river. We think that is key to the future of the Wild and Scenic System.

And the fact that that is recognized in this legislation is very significant and important to us.

We recognize that the drafters of the Wild and Scenic Rivers Act intended local activities and land uses along the river to continue, depending on how a river is classified.

We believe, however, that the bill, as now written, makes management of the river unnecessarily difficult for the federal management agency.

Despite the fact that it provides for citizen committees, places limits on land acquisition and contains other safeguards for landowners, it does not go far enough by expressly encouraging state, local and private action to protect and manage the river.

Many activities can be encouraged through language in the bill, including a management plan that would call for private land trust activities in the area, development of cooperative agreements to manage land along the river by private landowners, the employment of local land management plans, et cetera.

This will let the managing agency avoid land use conflicts rather than create them. Right now, the only option the Park Service has in the event of a conflict is to go ahead and condemn an easement. And we think that will offer a real problem for the Park Service.

Finally, there are a number of specific provisions in the bill that we believe are more appropriate in the legislative history, or ambiguous, and thus, potentially unnecessarily harmful to the river area.

It is not our intention to criticize the Senators for their efforts to protect the Niobrara, for this they are to be commended, but if this bill were to pass as written it would weaken all future Wild and Scenic designations at a time when the Wild and Scenic River System is on the threshold of enormous growth.

We look forward to working with the Senators and members of the subcommittee in developing constructive ways to resolve these issues.

Thank you.

[The prepared statement of Mr. Coyle follows:]

TESTIMONY OF KEVIN J. COYLE

VICE PRESIDENT, AMERICAN RIVERS, INC.

ON S. 280

A BILL TO INCLUDE THE NIOBRARA RIVER IN NEBRASKA
IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC
LANDS, NATIONAL PARKS AND FORESTS

April 5, 1989

Also on behalf of:

American Canoe Association

American Society of Landscape Architects

Environmental Policy Institute/Friends of the Earth

National Parks and Conservation Association

Sierra Club

The Wilderness Society

801 PENNSYLVANIA AVE., S.E.
SUITE 303
WASHINGTON, D.C. 20003
202-547-6900

Thank you, Mr. Chairman, for this opportunity to offer testimony on S. 280, an act to include a segment of the Niobrara River in Nebraska in the Wild and Scenic Rivers System. My name is Kevin J. Coyle, and I am Vice President and Conservation Director of American Rivers, Inc. I am also offering testimony today on behalf of the American Canoe Association, American Society of Landscape Architects, Environmental Policy Institute/ Friends of the Earth, National Parks and Conservation Association, Sierra Club, and the Wilderness Society. These groups represent more than 800,000 citizens and organizations in the United States who are concerned with river protection.

Mr. Chairman, we wish to praise Senators Exon and Kerry for their leadership in developing this proposal and to join with them in recognizing the Niobrara's outstanding natural values. We must, however, raise three serious objections to the legislation as now written.

The first, and by far the most serious problem is the bill has express language allowing for the construction of a "dam and diversion" on the river. In our view, this is a critically dangerous precedent because it would permit an action to take place that has never before been permitted on a Wild and Scenic River -- the building of a dam. Indeed, the very basis of the Wild and Scenic Rivers Act is to prevent such construction and to counter our national policies of river development with a policy that keeps our most outstanding rivers free-flowing. Surely the Niobrara is one of our very best rivers.

Were this bill to pass as written, all rivers eligible for inclusion in the national rivers system might also be developed with a dam under a new national river system precedent -- the "Niobrara Formula." Proponents of Wild and Scenic designation are offered this deal time and again but, it is fundamentally inconsistent with the Wild and Scenic Rivers Act.

We understand the proposed dam project for the Springview district is in lieu of the much larger Norden Dam proposal, but we also understand it is the least economically feasible element of the larger irrigation system proposed for the river. Moreover, the project is the only remaining dam in an overall program that involves non-dam approaches to providing for agricultural irrigation. We therefore recommend designation of the river without allowing for the building of a dam, either through express legislative language or by deleting the project area from the designation if that were to be considered as an option. We also ask that the subcommittee closely evaluate the feasibility and worthiness of the Springview project.

Secondly, the bill contains a number of provisions designed to assure riverside landowners there will not be a wholesale takeover of their land by the federal government. We recognize the need to develop cooperative and mutually supportive ways for government and private individuals to work together on river protection and management. We also recognize that the drafters of Wild and Scenic Rivers Act intended local activities and land uses along a river to continue, depending on how a river is classified -- wild, scenic, or recreational. We believe, however, that the bill as now written makes management of the river unnecessarily difficult for the federal

management agency. To begin with, the language of the bill, despite the fact that it provides for citizen committees, places limits on land acquisition, contains other safeguards for landowners, and does not expressly encourage state, local, and private action to protect and manage the river. Of the 119 rivers in the national rivers system, only 9 are predominantly private land, and the management plans for these rivers have worked best when an active local planning process is provided for. This bill, as now written, fails to specify the elements of an effective local planning process that engages local support and action. Instead, the bill would establish a one-sided relationship between landowners and the federal government that would permit citizens to criticize and second-guess the managing agency but would require them to do nothing. River area management must be two-sided to be effective. The limited federal authority called for in the bill is simply not enough to protect the river absent the active participation of local people.

Many activities can be encouraged through language in the bill, including a management plan that would call for private land trust activities in the area, the development of cooperative agreements to manage river segments, and the employment of local land management plans. This will let the managing agency avoid land use conflicts rather than create them. As now written, the only option the agency has to protect the river from a severe development threat is to condemn easements. As benign as that may seem when compared to relocation, it will nonetheless cause the citizens in the area to rise up in opposition. Similar provisions on the Upper Delaware National Scenic River became so controversial that the local people actively sought to deauthorize

the designation, and it has taken more than a decade to develop a management plan for the river.

Finally, there are a number of specific landowner-reassuring provisions in the bill that we believe are more appropriate for the legislative history or are ambiguous and thus potentially and unnecessarily harmful to the river area. For example, the language permitting the development of additional homes on properties of a certain size is wholly precatory and would be better placed in the committee report. Language permitting the rebuilding of irrigation structures should specify they cannot be increased in size. There are several other similar drafting problems that concern us and for which we would like to submit detailed recommendations to the subcommittee separately.

It is not our intention to criticize the senators for their efforts to protect the Niobrara. For this they are commended. But, if this bill were to pass as written, it would drastically weaken all future Wild and Scenic River designations at a time when the Wild and Scenic Rivers System is on the threshold of tremendous growth. We look forward to working with the senators and the members of the subcommittee in developing constructive ways to resolve these issues.

Thank you, and I will be pleased to take any questions.

Senator BURNS. Thank you, Mr. Coyle.

I will ask a question, and I suspect that Senator Exon will have a question. The bill requires the Secretary of the Interior to develop a management plan to protect the scenic values of the river, and at the same time, directs the Secretary to protect the pastoral landscape, which you alluded to, and the established farming and ranching lifestyles.

First of all, have you ever ranched or farmed?

Mr. COYLE. I never have.

Senator BURNS. Then, this may be an unfair question. Do you see any problems in developing such a management plan?

Mr. COYLE. No, I think it is a good idea. Our point is that that management plan should be developed and should have express language encouraging more participation by the local landowners.

Senator BURNS. Senator Exon.

Senator EXON. Thank you, Mr. Chairman.

To follow up on your statement that you just made, Mr. Coyle, and I listened very carefully. I believe you said that, you know, you like the bill, you think it is a good idea, you have some reservations.

And one of the reservations you had, you thought that the language of my bill would make it unusually difficult for the federal management officials. Is that correct?

Mr. COYLE. That is right.

Senator EXON. Mr. Chairman, therein lies a dilemma. This Senator has leaned over backwards to try and come up with compromise proposals. When I do that, I immediately get into trouble with the people on one side or the people on the other.

Therefore, I am almost compromised out. I have compromised for years and years and years. And I am tired of waiting.

I try and be fair, and you are certainly entitled to your view. And if I were coming at it from your standpoint, Mr. Coyle, I believe I would say that also.

But you see, those of us who have to make these decisions and try and develop a consensus have to make other decisions. You certainly heard, did you not, the testimony by the officials today from the National Park Service?

They indicated all kinds of state control and everything else. Did you criticize those bills that authorized some Wild and Scenic River designations at that time?

Mr. COYLE. Let me say, yes, we did.

One of the problems is that when you have a bill that calls for—and we respect the intent of compromise here. I think it is very important. And we really do respect that. The problem that comes up, and I will illustrate with the Upper Delaware Wild and Scenic River, which is largely private land, and frankly is very similar to this in that there is very severe restrictions on condemnation and so forth.

What you have in that situation is that, because there was not enough express language in the bill calling for an on-going process of really, really getting down dirty and working with the landowners and local communities and going through a very extended process, the Park Service came in. They showed up with their trucks and they showed up with guns on their hips, and they started to

work with the local community in their normal way of doing business which, in this case, was to start acquiring some land, or at least look at the possibility of acquiring land.

And it blew up. And it took 10 years to get a management plan together.

And one of the reasons it was identified for that problem was the lack of that express language in the bill.

So we are not suggesting that there be any—what you might expect from us I think is that we want more condemnation. That is not what we are saying. We are not saying we want more land acquisition. What we are saying is we want a process put in place that more effectively engages the local people.

Senator EXON. You also indicated that some provisions in this bill that we have made compromise on, and it was the general conclusion I think towards the end of your testimony was you said this would, if approved as drafted, it would weaken the Wild and Scenic River bill's jurisdiction.

In other words, you thought it would set a precedent.

Mr. COYLE. Primarily from the standpoint there has never been a Wild and Scenic Bill that expressly allows a dam to be built, for one thing.

And then, secondly——

Senator EXON. Of course, now, that—when you say a dam to be built, that is a diversion dam, right?

Mr. COYLE. That is right.

The legislative test in the Wild and Scenic Rivers Act is, (A) whether it is a water resource project, which this is, and then, (B) whether it would have a direct an adverse effect on the values for which the rivers is found eligible. One of those values would be its free-flowing nature.

Senator EXON. Once again, I would like to have the attention of the opponents to this bill that seem not to understand what lengths we have gone to.

Here we have got people that are behind the Wild and Scenic River Act criticizing us because the measure is too loose from their viewpoint, and we have people back home here criticizing the bill because it is too strict.

One of you are wrong, pretty clearly.

Ron, let me ask you a question or two.

What did you think when you heard the discussion today, since you have been involved in this for a long, long time, about the advisability of a two-year study to decide whether to look at the whole Niobrara? Maybe make the whole thing a Wild and Scenic River.

Can you imagine anything that would be more inflammatory and cause more difficulty for Nebraska than a proposal like that?

Mr. KLATASKE. I think that it would homogenize the confusion that would be created by study in the upper section and the lower section, combined with the middle section; homogenize the confusion in the opposition to the point where absolutely nothing could evolve out of such a study, as is being proposed in the legislation introduced by one of your companions on the House side.

The circumstances of land ownership and attitudes towards public use of this river vary greatly from one section of the river to the other.

This section included in this proposal includes the section where public use is accepted, endorsed, part of the lifestyles of the landowners along the river. And it is part of the economy of that area.

To try and impose that same kind of public use upstream in the areas where the landowners, basically, cherish their privacy, want the ranches to remain dedicated almost solely to livestock enterprises, and have fences across the river and things of this nature, I think would present a threat to them.

And I think a great many of them would present opposition to the same kind of proposal being proposed up there.

Those landowners up there, if they want to have designation, should be allowed to develop what is appropriate for their section of the river.

Senator EXON. Would it not be fair to say that the other county commissioners up and down the Niobrara would be tempted to pass resolutions against this if we indicated we were going to do some studies in their area to see whether we might expand it up into their country?

Mr. KLATASKE. I think that they should have been asked. Somebody should have been consulted up and down the river before legislation was introduced proposing that there be a study of all that upstream and all that downstream.

To the best of my knowledge, no one outside of Washington, D. C. has ever been consulted about that legislation. And I think it is a red herring at the least.

Senator EXON. It is a red herring.

Let me ask you this last question. You are a landowner on the Niobrara, is that correct?

Mr. KLATASKE. Yes. My wife and I own 218 acre pasture.

Senator EXON. 218 acre——

Mr. KLATASKE. Acre pasture. Yes. Along the Niobrara.

Senator EXON. And it borders on the Niobrara.

Mr. KLATASKE. Just north of Bassett.

Senator EXON. I do not think you would, but if you are someone else who owns land, anybody that owns land, larger or smaller than your particular piece, if they wanted to sell it tomorrow for the construction of a packing house on the banks of the Niobrara, or a high-rise hotel, you or any of the owners could do it if you wanted to, is that correct?

Mr. KLATASKE. Certainly. And my property would be prime development real estate if somebody wanted to do that. If I sell it. And I may have to at some point because of the financial obligations on my family with five children and many other responsibilities.

But if I sell it, I am only going to sell it to someone who will honor the provisions of this legislation. In other words, only——

Senator EXON. You would not sell it to me to build a slaughterhouse, sir?

Mr. KLATASKE. No. But, I might sell it to you or someone else when I need to at some point, if you agree with the provisions of

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this legislation and if you agree that, you know, nothing more than one residence, or something like that would be in place there.

I do not want to see our property in that area developed adversely. I am like many of the other people both for and against this legislation who basically said, we want to see the Niobrara River remain as closely it can in the future to what it is now as is possible.

And I think that this legislation certainly goes a long way to achieve that and is a tremendous accomplishment by the landowners and certainly evolves a great deal of consensus.

Senator EXON. Thank you very much, Mr. Klataske and Mr. Coyle.

Thank you, Mr. Chairman.

Senator BURNS. Thank you, Senator.

I have a couple of follow-up questions for you, Ron. If this study includes the upper river and if people believes that it would possibly be designated, there would be some very bad feelings. I am familiar with the controls associated with wild & scenic rivers, and I know what irrigators have to go through every time they have a diversion washout.

Would you agree that something like this could happen? And is that fear real or is it imagined among those landowners?

Mr. KLATASKE. I guess I do not fully understand the nature of your question.

Senator BURNS. Okay. What happens in this 76-mile stretch?

Mr. KLATASKE. Well, the 76-mile stretch of river that is being proposed is that the landowners were involved among themselves in developing this legislation. They essentially wrote this legislation and asked Senator Exon to introduce it.

They studied the legislation and made their proposals. They studied the Act and copies of management plans for other rivers and so on and so forth. They knew what they were doing when they proposed it.

The problem is that there has to be hundreds of landowners upstream from this section, all the way to the Wyoming border, and a great many downstream from this who have not been involved in this process. And to simply lump them with this section and throw them all into some big study pot, to me, would just create confusion and problems.

And I think, while studies may have some merit, there should be a certain amount of grassroots involvement prior to the imposition of studies on them, and that they should be part of the process all the way along.

And the idea of studying upstream or downstream from this section should be handled as a total different question as to whether or not this section has the merits to be included, and whether or not it really should be.

And we of course think it has the merits unquestionably, and you do not need a National Park Service person to tell you that. And we think it should be designated.

Senator BURNS. Well, the point I was making was that the same thing could happen to them without even their permission, on up the river, as far as designation is concerned.

And I think it sets a dangerous precedent. That is what I am saying. As I say, you fear what you do not know more than what you do.

Mr. KLATASKE. Well, I do not see where this impacts the people upstream at all. You know.

Senator BURNS. Yes. I think it would probably impact those upstream emotionally.

If you have no other questions——

Senator EXON. No, I have a question of you.

Do you enjoy living on a Wild and Scenic River designation? Do you feel better because it is there to give you some measure of protection?

Senator BURNS. No, not especially. Of course, we have not had any washouts in our county for the last 4 or 5 years, and we are liable to have one this year. And I think it is wonderful.

We may have a heck of a time getting into fix them, but nonetheless, this is the first year we have had water. You know what I mean—we will take it in any form.

Senator EXON. Thank you, Mr. Chairman. I have no further questions.

Senator BURNS. And thank you. I want to thank everyone, who came up here to testify before this subcommittee.

This hearing is now closed, thank you.

[Whereupon, at 4:36 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

Statement of Senator Tom Harkin

Subcommittee on Public Lands,

National Parks and Forests

Committee on Energy and Natural Resources

April 5, 1989

Mr. Chairman, during the last Congress I testified before this subcommittee on behalf of my legislation to provide for the establishment of a Western Historic Trails Center in Council Bluffs, Iowa. My colleague Senator Grassley and I have reintroduced this legislation, with some important changes, in the 101st Congress, and I want to thank you and the subcommittee for holding these hearings on our bill. I look forward to working with you to ensure its rapid passage and enactment.

For many Americans, the most intriguing part of our nation's past is the people who helped to shape today's United States. No event did more to mold the United States than the great westward expansion of the 19th century. Thousands upon thousands of ordinary people took

extraordinary risks in order to find greater opportunity and better lives for themselves and their families. As we speed along in our automobiles on the Interstate highway system, it's hard to comprehend the daunting task which faced those who moved west over a century ago.

In February, my colleague from Iowa, Senator Grassley, and I again introduced legislation to help bring that history to life for this and future generations of Americans. The establishment of a Western Historic Trails Center in Council Bluffs, Iowa will do much to educate us, as well as to celebrate the achievements of those hardy individuals who played such a vital role in shaping our nation.

During the last Congress, this committee heard from some of the individuals most responsible for the conception and development of the Western Historic Trails Center proposal. I have learned a great deal from them as we worked to develop this legislation. For example, while I knew that many of the westward expansion routes crossed Iowa, I did not know that Council Bluffs was the only city in the nation where three historic routes intersect: the Lewis and Clark Trail, the Mormon Pioneer Trail, and the Oregon Trail all crossed the Missouri River at Council Bluffs. And more people passed through Council Bluffs on their way west than through any other place in the country.

The Western Historic Trails Center will not only teach visitors about these facts, but will show them how these

courageous Americans lived their daily lives. The authentic re-creation of historic sites from the region promises to be an especially valuable tool to interest and educate visitors.

As you look at the proposal developed for the Western Historic Trails Center, I am sure you will be impressed by the effort and expertise which has gone into this project. The combination of interpretive exhibits, living history displays, and scholarly facilities will make this the most comprehensive center of its type in the country.

Today, thousands of Americans cross over these historic routes knowing very little about those who went before them. Interstate 80 is one of the most heavily travelled roads for today's westward -- or eastward -- migrations. The proposed site of the National Historic Trails Center, at the intersection of Interstates 80 and 29, will make the history of America's westward expansion easily accessible to all.

In response to concerns raised about the legislation we introduced in the last Congress, we have made several changes in the bill before this subcommittee today. Most importantly, the Center will be operated and maintained by a local entity, rather than the Park Service.

Once again, I thank the subcommittee for its attention to the Western Historic Trails Center proposal.

RESOLUTION

WHEREAS, the Brown County Board of Commissioners are concerned with the effects of a Scenic River designation for the Niobrara River in North Central Nebraska;

WHEREAS, the Brown County Board of Commissioners have not been informed of the effect a Scenic River designation will have on the upkeep of roads;

WHEREAS, the Brown County Board of Commissioners have not been informed of the effect a Scenic River designation will have on the tributaries to the Niobrara River;

WHEREAS, the Brown County Board of Commissioners feel that Federal Controls would not benefit the General population of North Central Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Brown County Board of Commissioners that the County Board opposes the Scenic River designation for the Niobrara River in North Central Nebraska pending receipt of information regarding the effects of a Scenic River designation and assurances local concerns shall be considered and implemented.

Dated this 7th day of February, 1989.

ATTEST:

Marilyn A Calver
County Clerk

William Budgel

Brown County Board of Commissioners

FILED
FEB 7 1989
MARILYN A. CALVER
COUNTY CLERK
BROWN COUNTY, NEBR.

RESOLUTION

WHEREAS, it is necessary and in the best interest of the people of Brown County, Nebraska, to avail itself of the zoning laws under Section 23-114 through 23-114.05, including, but not limited to, the appointment of a county planning commission, adoption of a county comprehensive development plan and zoning regulations;

NOW, THEREFORE, LET IT BE RESOLVED by the County Commissioners of Brown County, Nebraska, sitting in regular session this 20 day of Oct., 1987, since it is deemed to be necessary and in the best interest of the people of Brown County, Nebraska, that a county planning commission comprised of five members is hereby created with the following members serving the following terms from this date:

Larry Duden and Dan Clapper for one year;

Art Nomann and Francis Westcott for two years; and

Duane Daniels for three years.

That all rights and duties conferred upon the County Planning Commission as set out by the Nebraska Statutes is hereby conferred upon this Planning Commission.

Dated this 20 day of Oct, 1987.

ATTEST:

Marilyn A Calver

County Clerk

Board of Brown County Commissioners

FILED

OCT 21 1987

MARILYN A. CALVER
COUNTY CLERK
BROWN COUNTY, NEBR.

RESOLUTION

WHEREAS, the Brown County Board of Commissioners, are concerned with the possible Scenic River designation for the Niobrara River in north central Nebraska.

WHEREAS, the Brown County Board of Commissioners have not been informed of the effect a Scenic River designation will have on the upkeep of roads.

WHEREAS, the Brown County Board of Commissioners have not been informed of the effect a Scenic River designation will have on the tributaries to the Niobrara River.

WHEREAS, the Brown County Board of Commissioners can protect the area with zoning regulations and control if such controls are necessary.

NOW, THEREFORE, BE IT RESOLVED, by the Brown County Board of Commissioners that the County Board opposes the Scenic River designation for the Niobrara River in north central Nebraska.

Dated this 3 day of June, 1986.

ATTEST:

Marilyn A Calver
County Clerk

William Gudgel

Wilfred Lesch

[illegible]
Brown County Board of Commissioners

FILED
JUN 3 1986
MARILYN A. CALVER
COUNTY CLERK
BROWN COUNTY, NEBR.

Colorado State University

Department of Agricultural and
Resource Economics
Fort Collins, Colorado 80523

October 26, 1987

Mr. Greg Pallas, Executive Assistant
Senator J. James Exon, Nebraska
U.S. Senate Office Building
Washington, D.C. 20510

Dear Mr. Pallas:

This is in response to your request for information on the expected regional economic impact of possible designation of a 76 mile section of the Niobrara as a wild, scenic, and recreational river.

I was born in Seward County, and lived in the state for 38 years. Some years ago when I was on the staff of the University of Nebraska, I assisted the wild and scenic river study team in assessing the recreation potential of the river. I boated a section of the river with an interagency group of scientists. Later, I prepared information for an association of local ranchers who were interested in protecting a section of the Niobrara. This experience prompts me to apply my expertise as a recreation resource economist in an attempt to answer your questions to the best of my knowledge.

I will draw on the results of my comprehensive study of 11 potential wild and scenic rivers (1984) and my textbook entitled, Recreation Economic Decisions: Comparing Benefits and Costs (1986).

The designation of 76 miles of river is expected to generate approximately $4 million of additional output or sales in the local counties. This would result in about $1.2 million increase in net income, adding about 60 new jobs. Additional taxes would be at least $200,000 per year.

These estimates are based on the following assumptions. Annual recreation use of the 76 miles section will increase by 228,000 recreation visitor days of 12 hours. This is equal to 40 percent of the reported use per mile for potential wild and scenic rivers in Colorado, owing to differences in size and characteristics. Expenditures will average $14.50 per visitor day in 1987 dollars, 50 percent in the local region and 50 percent enroute and where they live. In addition, 5 percent of expenditures for durable consumer goods such as boats and related recreation equipment will be made in the local region. The regional multiplier is 2.0, consistent with recreation impacts of comparable sites. Net income is assumed to equal 30 percent of direct and indirect output or sales, and taxes 5 percent. New employment is assumed to be equal to total net income divided by $20,000. Of course, the actual experience in

Mr. Greg Pallas
October 26, 1987
Page Two

the local region of the Niobrara river may vary which would change the estimated regional impact. However, each of these assumptions is based on the best available information for comparable recreation sites, adjusted to Niobrara River conditions.

In addition, there may be a substantial economic impact on the Nebraska economy outside of the local region. Without designation and management of the Niobrara as a wild and scenic river, existing and potential residents of the state who engage in this type of recreation activity may be forced to travel out of state to do so. If we assume that they would be inclined to use the Niobrara instead, then designation could generate up to $20.6 million of additional output and sales in the state outside of the local region of the river. This would result in net income of $6.2 million, adding about 309 new jobs. Additional taxes would amount to more than $1 million.

Sincerely yours,

Richard G. Walsh
Professor

RGW:dkd

STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

LARRY W. GEORGE
Deputy Director

STATEMENT OF THE WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES ON
SENATE 85, EXPANDING HARPER'S FERRY NATIONAL PARK
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Thank you for the invitation to comment on Senate 85, a measure to expand the Harper's Ferry National Park. The West Virginia Department of Natural Resources does own 30.1 acres very near the Park and we are interested in any plans for Park expansion.

The lands that we have acquired through donation or purchase are dedicated to wildlife observation and study. Each of these parcels were donated to the Department for this purpose. Therefore, there is no hunting or trapping allowed in these areas. The lack of water areas, of course, negates fishing opportunity.

It is the intent of the Department to retain these lands and continue to manage them in the fashion intended upon their donation or purchase. The Department has constructed a parking lot and maintains trails on the areas for public use. We hope, in the future, to increase the opportunities available to the public on these properties. Therefore, we would entertain discussion with the National Park Service about a cooperative management agreement which allows the State of West Virginia to retain the properties but would make available to the public better services explaining the fauna and flora of the area. The small size of the area currently prohibits the Department from staffing the area with a manager.

FPR
4-5

April 4, 1989

From: Hugh Potter
339 N. Hall St.
Valentine, Nebraska 69201

To: Committee on Energy and Natural Resources
308 Senator Dirksen Building
Washington, D.C. 20510

Testimony on Niobrara Scenic River Designation Act.

I am a resident of Cherry County, Nebraska at Valentine. I have a vested interest in Niobrara river bank land east of the Valentine Wildlife Refuge in Nebraska.

Following the introduction of the bill in 1985, Senator Exon asked the NE Natural Resources Commission to do a feasibility study. After interviewing landowners and holding meetings, the commission issued its resolution on Sept. 11, 1986:

> THEREFORE: The Natural Resources Commission strongly favors local involvement at this time and urges the local residents, through their elected representatives, to select and develop the appropriate means to preserve, protect, and manage the special values of the Niobrara River . . .

Mr. Kramper, Chairman of the Commission, recommened five to ten years be allowed for implementation of a plan by local governmental agencies. In spite of the resolution, Senator Exon introduced the bill a second time. Therefore, we oppose the Niobrara Scenic River Act for the following reasons:

1. Both sides of this issue, those for and those against the scenic river designation, agree that the landowners have been doing an excellent stewardship job. The bill is not necessary.

2. The local governmental bodies are moving forward and have a two-acre recreation site in place and others are planned.

3. Congress should not add 4.5 million in start-up funds to the 1989 deficit and the national debt! To our knowledge, there has been <u>no</u> written criticism of the stewardship of the land.

4. I am still very much against the bill as written. Each of the three segments has different restrictions for landowners. This goes against the basic idea of equal protection before the law for all affected landowners. The bill requires less protection above the Cornell Dam than the

segments below. It is logical to assume that protection, if needed, should be most stringent in the upper segment of the proposed scenic river designation.

5. Any landowner would know that restrictive federal easements are time-consuming and difficult to work around. They have a serious, adverse effect on land values.

In addition, if the "set up' costs are funded by fees from off-shore drilling as the Exon group claims, then why doesn't the Federal Government purchase the land required for the Scenic River, instead of easements which place a cloud on any land title. This would clearly define the ownership and relieve the present land owners of paying taxes on land restricted by the easement both in leasing and ownership use, and especially the sale of the land involved and the sale of adjoining land.

The Government could then lease the land back to the former owner or others for use that would not detract from the Scenic River and use the lease money to offset some of the expenses of the project, which I am sure would not come from off-shore drilling fees but from appropiations of tax funds, from here on out.

Thank you for considering the above Testimony on the Scenic River Act proposed for the Niobrara River at Valentine and on east.

Sincerely:

Hugh Potter

Hugh Potter
339 N. Hall St.
Valentine, NE 69201
1-402-376-3564

FTR

march 31, 1989

Honorable Dale Bumpers
Chairman Sub committee
on Public Lands, National Parks
And Forests
U.S. Senate
Washington D.C. 20510

Dear Senator Bumpers

I support the scenic river bill for the Niobrara River in northern Nebraska. I have lived 16 miles from this river for 44 years and it is a treasure to be sure. the Land along the river is not developed yet and remains wild and free but we must see to it that it stays that way.
We have millions of acres protected in Alaska and the mountain west states but we need also to protect some of the midwest. Many people in this area support this scenic river designation. I wish it were possible for every member of the House and Senate to see this area of great beauty. I hope 40 years from now to see this river valley just as it is today.

Thank you
Jerry O. Worth
[illegible]

SENT BY:AMERICA FIRST ; 4- 3-89 ; 12:13 ; 4023458988→ 18123791554;# 3

STATEMENT OF VINCENT SHAY - DIRECTOR OF

THE NEBRASKA FIELD OFFICE

OF THE NATURE CONSERVANCY

April 3, 1989

Dear Senators:

I am Vincent Shay, Director of the Nebraska Field Office of The Nature Conservancy. Thank you for allowing me to comment on S. 280 - a bill to include a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic River System. We wholeheartedly support Senators Exon and Kerrey in this effort to provide increased recognition of the unique natural resources of the middle Niobrara Valley through a balanced effort of preservation and coordinated resource management.

The Nature Conservancy, is a private, non-profit conservation organization dedicated to preserving the full array of biological diversity by finding, protecting, and maintaining the best examples of communities, ecosystems, and endangered species in our natural world. The Nebraska Field Office of The Nature Conservancy is actively contributing to these efforts in our state through a variety of land protection projects.

The Niobrara Valley has long been recognized as a unique blending of six major vegetation types. It is, essentially, the biological crossroads of the Great Plains where north meets south and east joins west. Nowhere else in North America does this combination of community types occur.

In 1980 with a grant from the Goodhill Foundation, The Nature Conservancy purchased a 55,000 acre preserve to help protect this incredible biological diversity.

As a major landowner in the heart of the proposed scenic river corridor, The Nature Conservancy views this proposed legislation as consistent with both resource protection and economic development Director of Science and Stewardship, Al Steuter, will provide testimony on the biological uniqueness of the area. Please permit me to share a few personal observances concerning the Niobrara River Valley.

Speaking as a person who has only recently moved to Nebraska, I had never been exposed to the unique scenery of the Niobrara River before 1988. Quite honestly, it exceeded my expectations. Few people would believe that a scenic treasure like the Niobrara could exist in a state that most people inaccurately perceive as flat and full of corn. The rugged beauty of the sandhills gives way to a dramatic vista of rugged bluffs, ponderosa pine, and sparkling water. The image it produces is consistent with what I conjure up as a true wilderness...that is, the apparent lack of human intrusion. It is easy to imagine that the views this valley affords are not substantially changed from those of the late 1800's.

The inhospitable nature of the sandhills soils, the relative inaccessibility of this region and the diligent stewardship of the current landowners have all aided in the protection of this river and its valley.

However, I think we've all seen what happens to areas that are "protected" only because they have been forgotten or cared for solely through the efforts of a few dedicated people. Once the resource is discovered, or the ownership of the land passes from those people who have loved and protected it, the threats of thoughtless development and exploitation are very real.

Try to remember that very special and private place near your home where you played as a child. The chances are that indeed all that's left of that area is a memory because that little woodland, old field or tiny stream has probably disappeared in the rush of urbanization that too frequently assaults our special places.

I urge you to consider this proposed legislation carefully and give it your support. We have a chance, in Nebraska, to protect a wild and scenic treasure that is equal to any in this great country. We need to act now, before it, like so many others, becomes just a memory.

Respectfully,

Vincent Shay

Vincent Shay, Director
Nebraska Field Office
The Nature Conservancy
1001 Farnam St.
Omaha, NE 68102

STATEMENT OF
RICHARD SPELTS

BEFORE
THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL FORESTS, AND PARKS
UNITED STATES SENATE
APRIL 5, 1989

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, MY NAME IS DICK SPELTS. I APPRECIATE THE OPPORTUNITY TO SUBMIT TESTIMONY IN SUPPORT OF S. 280, THE NIOBRARA SCENIC RIVER DESIGNATION ACT OF 1989.

BY WAY OF BACKGROUND, LET ME BEGIN BY STATING THAT I AM PRESIDENT OF SPELTS OF NEBRASKA, INC., A HOLDING COMPANY FOR BUILDING MATERIAL FIRMS. UNITL MY RETIREMENT FROM BANKING IN 1984, I WAS ALSO PRESIDENT OF THE FIRST NATIONAL BANK OF GRAND ISLAND. SINCE 1894, SIX GENERATIONS OF MY FAMILY HAVE, AT ONE TIME OR ANOTHER, MADE THEIR HOME IN HALL COUNTY NEBRASKA. OVER THE YEARS I HAVE BEEN DEEPLY INVOLVED IN CONSERVATION AND PRESERVATION ISSUES AFFECTING NEBRASKA. FOR NINE YEARS I SERVED AS CHAIRMAN OF THE PLATTE RIVER WHOOPING CRANE TRUST.

EARLIER THIS YEAR SENATOR EXON CONTACTED ME TO SEE IF I WOULD SERVE AS CHAIRMAN OF A CITIZENS' COMMITTEE TO HARNESS SUPPORT FOR NIOBRARA SCENIC RIVER DESIGNATION. I GLADLY AGREED.

THE NIOBRARA RIVER IS RESOURCE MOST WORTHY OF OUR PROTECTION. ITS SCENIC VISTAS ARE SOME OF THE MOST BREATHTAKING IN THE STATE AND THROUGHOUT THE NATION. THE BEAUTY OF THE NIOBRARA HAS, FOR THE MOST PART, BEEN MAINTAINED. BUT I FEAR THAT WILL NOT BE THE CASE IN DECADES TO COME AND THAT IS THE REASON WE NEED TO MOVE FORWARD WITH SCENIC RIVER DESIGNATION.

THE PAST 60 YEARS I HAVE SLOWLY WATCHED THE PLATTE RIVER DRY UP BECAUSE OF UPSTREAM EXCESSES. THE NIOBRARA IS ONE OF THE FEW REMAINGING RIVERS IN NEBRASKA THAT EXHIBITS THE NATURAL BEAUTY WHICH I AND MOST NEBRASKANS HOLD IN SUCH HIGH ESTEEM. IT HAS NOT TURNED INTO A SAND BAR LIKE THE PLATTE AND SCENIC RIVER DESIGNATION WILL ENSURE THAT IT RETAINS ITS BEAUTY FOR FUTURE GENERATIONS.

Mills Nebr.
april
68753

To whom it may Concern:
First I would like this letter entered into the Niobrara Scenic River hearing S.280
Second I am against ~~The Nomi~~ of Wild & Scenic River System.
I Too many irresponsible people, drug addicts etc, would be coming into the area:
II As an example a few years ago campers came to the Keya Paha river & threw paper plates etc all over; some of us came up on them & remarked about the trash; so it was picked up. (This was 1 ½ mi of me)
III. Another time and older couple also from the eastern part of state ate lunch just off highway 12 on a private road spit; put their trash in middle of road lit a match & left it unattended within 200 ft of 1000T of hay (cattle feed) & a shelter belt on a dry windy day. Wind could of started a terrible fire. (That was ½ mi of me) The fire was found & put out.
IV The local landowners have taken excellent care of the Niobrara river for the last 100 years and am sure they will do so in the future

Charles L. Adkinson

Mills, Nebr.
68753
april 10.

Dear Sirs:

I would like this letter entered into the hearing on Niobrara River Scenic S. 280

Second I am against the 76 mi of the Wild & Scenic River System
Too many irresponsible people will be coming into the area
1 As an example a few years back campers came to the KeyaPaha river at a crossing & threw paper plates etc all over; al several of us came along & remarked about the trash, so it was picked up.
2 Another time and older couple also from the eastern part of the state ate lunch off highway 12 and a private road exit; put their trash in middle of road lit a match & left it unattended with about 1000 T hay in stacks yard & shelter belt only 300 ft away. What if the wind had came up or a whirlwind?

Vera Atkinson

(402) 497-2656
Denis & Betty Palmer

HC 60, Box 22
Springview, NE 68778

Palmer Ranch

April 8, 1989

Senate Sub-Committee
on Public Lands

Dear Senators,

I would like this letter entered into record in the hearing of April 5, 1989 concerning Senate bill S-280, Designation of 76 miles of the Niobrara River into the Wild & Scenic River System.

My name is Betty Palmer, I am a resident of Keya Paha County, Nebraska and I oppose this bill. My reasons of opposition are many. First and maybe the simplest and best reason is that this designation is not needed at all. The people who have lived along the river now and since settlement of the area have taken excellent care of it. It is indeed a precious treasure. If at any time there comes danger to the river, the people of this area will immediately and carefully consider the problem and solve it.

Another thing the sub-committee should consider is that until a few years ago when land along the Niobrara River was purchased by out-of-county individuals and groups, most of them enrolled in the canoeing industry, there was no push for this type of designation because there

was no need for it then and there is none now. I personally feel those involved in the canoeing industry are supporting the designation for personal gain.

Also Keya Paha County is an economically depressed area and if the designation passes a large burden of road upkeep and other civil responsibilities will fall on the county.

Representative Virginia Smith is listening to people on both sides of the issue and as she has stated the majority of the local people oppose the designation and the local people are the ones who will have to live with it, if passed.

I respectfully ask that the sub-committee recognize that control of the Niobrara River in this area remain under local control. I can assure you that the Niobrara River & surrounding area will not suffer if left under local control.

Thank you.

Betty Palma

april 8, 1989

Sub-Committee of Public Lands
Senate Committee of Energy and Natural Resources,
308 Dirkson Office Building Washington D.C. 20510

Dear Sir:
I would like for my letter to be entered into the hearing record concerning the Scenic River S-280
I would like for the Senator J.J. Exon's Niobrara River Scenic river bill to be passed as soon as possible.
I am a land owner on the Niobrara, we own two miles of river front.
They it has been well taken care of, if we dont pass the bill it wont stay that way. there have been lots sold along the river in the last few years if the bill is not passed there will be more lots sold.
I think the land owners should be paid to not develope the river front.
We have 4 married children & they are all in favor of the Scenic river.

Sincerely,
Franklin H. Egelhoff + Family.
HC81-Box 50
Springview Ne. 68778

&SN

8241 E. Avon
Lincoln, NE. 68505
April 6, 1989

Sub-Committee on Public lands
Senate Committee of Energy
and Natural Resources
308 Dirksen Office Bldg.
Washington, D.C. 20510

Dear Committee:

I am writing to have my letter entered into hearing records concerning the designation of the Niobrara River as a Scenic River, S-280.

I strongly support designation of the 76-mile stretch of the Niobrara River as proposed by Senator J. James Exon. I believe a majority of landowners in this stretch favor designation. I believe only a national protection would be effective in preserving the natural & scenic wonder of the river. I would like to have the beauty of the river preserved not only for my generation, but for several

generations to come. This seems to be the only effective long-term solution which will work.

I was born and raised in Valentine, so I have a good understanding of the area, including the river. I still visit the area frequently to hike, swim, canoe and ride horses with my wife's relatives.

Thank you in advance for your thoughtful consideration.

Sincerely,

Bill & Evelyn Barnes

FTR
415

Sub Committee on Public lands
Senate Comm. of Energy and
Natural Resources, 308 Dirksen
Office Bldg. Washington D. C.

Dear Sirs

I would like this letter entered into the hearing record concerning the designation of the Niobara River as a scenic river S-280

Having lived along the river for many years I believe it should be left as it is.

Why should some of these people along the river receive high sums of money for land that is useless because of canyons & wooded areas

I also feel that some day a dam may be needed to keep our water & also for power.

I am against Sen. Exons plan.

Sincerely Rose Peacock
Box 504 Bassett, Ne. 68714

ROY I. ANDERSON
LAWYER
BLAIR, NEBRASKA 68008
PHONE 426-3655

April 17, 1989

Senate Committee of Energy
and Natural Resources
308 Dicksen Office Building
Washington, D.C. 20518

Sirs:

I request this letter be entered into the hearing record concerning designation of the Niobrara River as a scenic river, S-280.

I further request the Committee take favorable action to establish the 75 miles of river selected by Senator Exon's bill as a scenic river.

Yours truly,

Roy I. Anderson

RIA:sw

FTR.
Nebraska

2306 So. 5th St.
Norfolk, Ne.
April 19, 1989

Dear Sir:

We have been going to Keya Paha County for about 13 years to hunt and fish in the Niobrara River area. We very much enjoy the vast beauty of this country side. We like it so much that about 9 years ago we bought a small ranch on the river. We would like to see the river stay as it is, and for that reason we do support you in wanting the 76 mile stretch of the Niobrara River to be a National Scenic River.

We also enjoy the clean air and the peace and quite of this area. It would be sad if people were alowed to continue to build along the river and hinder the beauty of the land. Rocky Ford is one spot I used to like to go to. Now it is hardly more than a parking lot.

The ~~Wild and~~ Scenic River Project will also help insure the fate of the wild life, the fish in the river and the river it self.

Both of our childern and their spouse's also support the Project. And we hope that when our grandchildern are old enough to enjoy the river that the river is worth enjoing.

Sincerely,

Delbert Scheffler

Mr. & Mrs. Delbert Scheffler